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**Report on Cluster D(1):
Applications for Victim Participation**

Table of Contents

Introduction.....	2
I. The Legal Framework	3
A. The Application for Victim Participation.....	4
B. The Transmission of Applications	5
C. The Assessment of Applications	6
D. Legal Representation of Victims.....	7
II. The Standard Victim Application System (“Standard System”)	8
A. The Application Process	8
B. Legal Representation.....	8
III. Alternatives to the Standard System.....	9
A. Early Approaches	10
1. The Gbagbo Pre-Trial System: Exploring a Collective Approach.....	10
2. The Kenya Trial System: Delegating the Assessment of Applications.....	10
B. Review and Adaptation.....	11
1. The Ntaganda Pre-Trial System: Abandoning the Collective Approach....	11
2. The Ntaganda Trial System: A Hybrid Approach.....	11

Introduction

1. The Working Group on Lessons Learnt (“WGLL”) submits the present report on Cluster D(1): Applications for Victim Participation to the Study Group on Governance (“Study Group”). The WGLL was established in October 2012 pursuant to the Roadmap on Reviewing the Criminal Procedures of the International Criminal Court (“Roadmap”). The Roadmap was drafted by the Study Group and subsequently endorsed by the ASP in November 2012 and as amended in November 2013. The WGLL and the Roadmap were developed in response to a request by States Parties for a mechanism to identify areas for improving the efficiency of judicial proceedings and propose amendments to the legal framework.
2. The Rome Statute of the International Criminal Court (“Statute”) grants victims the right to participate in judicial proceedings by presenting their own views and concerns before the Court. The victim participation scheme is multi-dimensional and includes a victim application system, various modalities of participation, and a reparations regime. The present report focuses on the victim application system, which is a victim’s “point of entry” into the Court’s victim participation scheme. This system establishes a process for determining who qualifies as a victim such that he or she may participate in a judicial proceeding.
3. In 2010, as a result of a growing number of situations and cases, the Court began experiencing a significant increase in the number of applications for victim participation. This increase has strained the Court’s resources, resulting in application backlogs with attendant delays to judicial proceedings.
4. In December 2011, the Assembly of States Parties (“ASP”), recognizing this situation, requested the Court to begin studying victim participation with a view to enhancing its efficiency and efficacy. As a result, the Court began a long-term review of the victim participation scheme, beginning with the victim application system.
5. In parallel, several Chambers began devising, on a case-by-case basis, different approaches to the victim application system. Through these various approaches, the Chambers sought not only to address inefficiencies in the victim application system, but also to substantively improve the application process so as to ensure the safe and meaningful participation of victims. As a result, the Court has tested at least five different victim application systems.
6. The present report provides the relevant legal background for understanding potential reforms to Cluster D(1). The judges are currently in the process of evaluating the victim application system with a view to identifying key challenges and articulating appropriate reforms. The WGLL shall update the SGG in the future on proposed reforms.
7. This report proceeds in three main parts. Part I describes the applicable legal framework. Part II discusses the standard victim application system (“Standard System”), implemented during the Court’s first decade of operation. Part III summarizes the emergence of four alternative systems implemented by Chambers beginning in 2012.

I. The Legal Framework

8. The victim participation scheme set forth in the Statute was unprecedented at the time of the Court's founding.¹ The law and practice of the *ad hoc* international criminal tribunals established prior to the Court have principally restricted the participation of victims in judicial proceedings to the role of witness.² By contrast, the Statute gives victims a greater role at the Court by granting them the right to participate in their own right and to present their own views and concerns.³ The application system regulates the exercise of that right by establishing a process for determining who qualifies as a victim in a particular situation or case such that he or she may participate in a judicial proceeding before the Court.

The Legal Framework of the Court

- The Statute established the Court and articulates its functions and powers. The Statute was adopted at the Rome Diplomatic Conference on 17 July 1998 and entered into force on 1 July 2002 upon ratification by 60 States. Amendments to the Statute require a two-thirds majority of States Parties.
- The Rules of Procedure and Evidence ("Rules") are an instrument for the application of the Statute and are to be read in conjunction with and subject to the Statute. The Rules entered into force on 9 September 2002 upon adoption by a two-thirds majority of States Parties. Amendments to the Rules also enter into force upon adoption by a two-thirds majority of States Parties.
- The Regulations of the Court ("RoC") are regulations necessary for the Court's routine functioning and are to be read subject to the Statute and Rules. The RoC entered into force on 26 May 2004 upon adoption by an absolute majority of the judges. Amendments to the RoC also enter into force upon adoption by an absolute majority of the judges.
- The Regulations of the Registry ("RoR") govern the operation of the Registry and are to be read subject to the Statute, Rules, and the RoC. The RoR entered into force upon approval by the Presidency on 6 March 2006. Amendments to the RoR also enter into force upon approval by the Presidency.

9. Article 68(3) of the Statute grants victims the right to participate in judicial proceedings before the Court, providing:

Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.⁴

10. The Rules specify the procedure governing victim participation. Rule 89 addresses the application system for determining who may participate pursuant to article 68(3) and provides:

1. In order to present their views and concerns, victims shall make written application to the Registrar, who shall transmit the application to the relevant Chamber. Subject to the provisions of the Statute, in particular article 68, paragraph 1, the Registrar shall provide a copy of the application to the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber. Subject to the provisions of sub-rule 2, the Chamber shall then specify the proceedings and manner in which participation is considered appropriate, which may include making opening and closing statements.
2. The Chamber, on its own initiative or on the application of the Prosecutor or the defence, may reject the application if it considers that the person is not a victim or that the criteria set forth in article 68, paragraph 3, are not otherwise fulfilled. A victim whose application has been rejected may file a new application later in the proceedings.
3. An application referred to in this rule may also be made by a person acting with the consent of the victim, or a person acting on behalf of a victim, in the case of a victim who is a child or, when necessary, a victim who is disabled.
4. Where there are a number of applications, the Chamber may consider the applications in such a manner as to ensure the effectiveness of the proceedings and may issue one decision.

A. The Application for Victim Participation

11. Victims who wish to participate in a judicial proceeding “shall make written application to the Registrar” pursuant to rule 89(1).⁵ The Rules set no limitation on when a victim may submit such an application.⁶

12. Rule 92, which addresses “Notification to victims and their legal representatives”, sets out two distinct instances when the Court must notify victims “[i]n order to allow victims to apply for participation in proceedings in accordance with rule 89”. In the first instance, the Court must “notify victims concerning the decision of the Prosecutor not to initiate an investigation or not to prosecute pursuant to article 53.”⁷ In the second instance, the Court must “notify victims regarding its decision to hold a hearing to confirm charges pursuant to article 61.”⁸ Rule 92 does not, however, “limit the participation of victims to the stages mentioned in . . . the rule.”⁹

13. Victims submit their written applications for participation to the Court via the Registrar.¹⁰ The RoC flesh out the role of the Registrar in this respect. Pursuant to RoC 86(1), the Registrar is tasked with developing standard application forms for victim participation which “shall, to the extent possible, be used by victims.”¹¹ RoC 86(2) prescribes the information that the standard application must contain “to the extent possible.” This information includes:

- (a) The identity and address of the victim, or the address to which the victim requests all communications to be sent; in case the application is presented by someone other than the victim in accordance with rule 89, sub-rule 3, the identity and address of that person, or the address to which that person requests all communications to be sent;

- (b) If the application is presented in accordance with rule 89, sub-rule 3, evidence of the consent of the victim or evidence on the situation of the victim, being a child or a disabled person, shall be presented together with the application, either in writing or in accordance with rule 102;
- (c) A description of the harm suffered resulting from the commission of any crime within the jurisdiction of the Court, or, in case of a victim being an organization or institution, a description of any direct harm as described in rule 85 (b);
- (d) A description of the incident, including its location and date and, to the extent possible, the identity of the person or persons the victim believes to be responsible for the harm as described in rule 85;
- (e) Any relevant supporting documentation, including names and addresses of witnesses;
- (f) Information as to why the personal interests of the victim are affected;
- (g) Information on the stage of the proceedings in which the victim wishes to participate, and, if applicable, on the relief sought;
- (h) Information on the extent of legal representation, if any, which is envisaged by the victim, including the names and addresses of potential legal representatives, and information on the victim's or victims' financial means to pay for a legal representative.¹²

14. The Registrar may, in accordance with RoC 86(4) "request further information from victims . . . in order to ensure that such application contains, to the extent possible" the information above.¹³ The Registrar may also "seek additional information from States, the Prosecutor and intergovernmental or non-governmental organizations."¹⁴

B. The Transmission of Applications

15. Once the Registrar has received an application, he must "transmit [it] to the relevant Chamber" pursuant to rule 89(1). The RoC also elaborate on the role of the Registrar with respect to this transmission. RoC 86(5) provides that the Registrar is to present applications to the Chamber "together with a report thereon."¹⁵ This provision also stipulates that the Registrar "shall endeavour to present one report for a group of victims, taking into consideration the distinct interests of the victims." A Chamber may order the Registrar to "submit one report on a number of applications received . . . to assist that Chamber in issuing only one decision on a number of applications in accordance with rule 89, sub-rule 4."¹⁶

16. The Registrar must also, pursuant to rule 89(1), provide a copy of applications submitted by victims to the Prosecutor and the defence, "who shall be entitled to reply within a time limit to be set by the Chamber." RoR 99(1) directs that prior to such disclosure, the Registry must "review the application and assess whether . . . disclosure . . . may jeopardise the safety and security of the victim concerned or any third person." The Registry must then "inform the Chamber" of its assessment and

“may make recommendations regarding the disclosure of all or part of the information provided by the victim”.¹⁷

C. The Assessment of Applications

17. Once the Registrar has transmitted the applications (and the accompanying report) to the Chamber, rule 89(2) provides that the Chamber “on its own initiative or on the application of the Prosecutor or the defence, may reject the application if it considers that the person is not a victim or that the criteria set forth in article 68, paragraph 3, are not otherwise fulfilled.”¹⁸ Rule 89(2) further provides that “[a] victim whose application has been rejected may file a new application later in the proceedings.”

18. The Appeals Chamber has set forth that applicants must “demonstrate . . . that they are victims within the meaning of rule 85”.¹⁹ Rule 85 defines “victims” with respect to both natural persons as well as organizations and institutions:

- (a) “Victims” means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;
- (b) Victims may include organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.

A Note on Applicants Who Qualify as Victims

Applicants who qualify as victims pursuant to rule 85 are not automatically entitled to participate in a judicial proceeding before the Court. Rather, the first sentence of article 68(3) provides:

Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. (emphasis added)

The Appeals Chamber has clarified that this article 68(3) assessment follows the rule 85 assessment.²⁰ In other words, *after* applicants have “demonstrate[d] that they are victims within the meaning of rule 85” pursuant to “the procedure of rule 89(1)”, they *then* “pursuant to article 68(3) . . . have to demonstrate that their personal interests are affected by the [proceedings] in order to be permitted to present their views and concerns”.²¹ The Chambers have held that victims must make this demonstration via “a discrete written application”.²² The present report focuses on the first of these two steps – the rule 85 assessment – as it concerns the application process set forth in rule 89.²³

19. The Court’s jurisprudence has held that an applicant qualifies as a victim pursuant to rule 85(a) under the following criteria:

- 1. his or her identity as a natural person appears duly established;

2. the events described in the application constitute(s) one or more crimes within the jurisdiction of the Court and with which the suspect is charged;
3. the applicant has suffered harm as a result of the crime(s) with which the subject is charged.²⁴

20. In determining whether an applicant meets the above criteria, the Court's jurisprudence directs that the Chambers are to undertake a *prima facie* assessment.²⁵

21. With respect to the first criterion, the Chambers have permitted applicants to establish their identities as natural persons through a range of means. In doing so, they have adopted slightly varying requirements tailored to case-specific circumstances as to which documents will be accepted to prove an applicant's identity.²⁶ The Chambers have also differed as to whether child victims may apply on their own behalf,²⁷ and whether a successor may apply in place of a deceased applicant.²⁸

22. In terms of the second criterion, the Chambers have held it "necessary that a link between the events described by the victim applicants and the case brought by the Prosecutor against the suspect be established".²⁹

23. Finally, with respect to the third criterion, the Court's jurisprudence instructs that "harm" shall "denot[e] injury, loss, or damage" and may include physical injury, emotional suffering and economic loss.³⁰ Such "harm" may be indirectly or directly suffered, but must be "suffered personally by the victim."³¹ The harm must also have a causal link to the crime. In this respect, the Chambers have emphasized that "the standard of causation . . . cannot be established with precision *in abstracto* but can only be assessed on a case-by-case basis in light of the information provided in the application form."³² Nevertheless, they have held it to be "sufficient if the applicant demonstrates that the alleged crimes could have objectively contributed to the harm suffered".³³

24. In evaluating whether an applicant qualifies as a victim pursuant to rule 85, the Trial Chambers have encountered the issue of determining whether the assessment at the pre-trial stage should apply equally at the trial stage. The Chambers have varied in their approach to this issue, permitting automatic authorization in some cases³⁴ while, in other cases, reviewing again the applications of those permitted to participate at the pre-trial stage.³⁵

D. Legal Representation of Victims

25. The Court's victim participation scheme makes provision for the legal representation of victims. Specifically, the second sentence of article 68(3) provides that the "views and concerns" of victims "may be presented by the[ir] legal representatives . . . where the Court considers it appropriate in accordance with the Rules of Procedure and Evidence."³⁶

26. Article 68(3) suggests that legal representation is limited to victim participation in the judicial proceedings and does not extend to the victim application process. However, in practice, and as described in Part II.B, some Chambers have permitted the appointment of legal representatives to represent victims during the application

process. In addition, some Chambers have ordered the Registry to organize legal representation at the outset of proceedings and, as such, to consult with victims during the application process. Accordingly, the management of legal representation can be a significant component of the victim application system.

II. The Standard Victim Application System (“Standard System”)

27. The Standard System describes the application process implemented by Chambers in judicial proceedings during the Court’s first decade of operation.³⁷

A. The Application Process

28. Individuals complete and submit to the Registry a standard application form for participation (“Standard Form”) pursuant to rule 89(1) and RoC 86(1)-(2).³⁸

29. Upon receiving applications, the Registry reviews them before transmission to the Chamber.³⁹ In the earliest proceedings, Chambers limited the Registry’s review to a determination of whether an application was complete.⁴⁰ In later proceedings, however, Chambers expanded the scope of the Registry’s review, instructing the Registry to also conduct an initial assessment of whether the applicants meet the requirements of rule 85.⁴¹

30. Following its review of the applications, the Registry transmits them to the Chamber, together with a report, in accordance with rule 89(1) and RoC 86(5).⁴² The format for the report “has been developed in consultation with . . . various Chambers”.⁴³ This format is “individual” in nature, meaning that it presents the information contained in each application for participation, enabling the Chamber “to verify whether the applications fall within the scope of rule 85”.⁴⁴

31. The Registry also transmits copies of the applications, redacted as necessary, to both the Defence and the Prosecutor pursuant to rule 89(1).⁴⁵ The Registry does not typically transmit copies of its reports to the parties.⁴⁶

32. The parties are entitled to make observations on the applications and to contest those that they do not believe meet the legal requirements for participation.⁴⁷

33. The Chamber assesses and decides each application individually, taking into consideration the observations submitted by the parties.⁴⁸

B. Legal Representation

34. The Chambers within the Standard System have taken various approaches to the legal representation of applicants. In some proceedings, Chambers have determined that applicants are not entitled to a legal representative during the application process.⁴⁹ In other proceedings, Chambers have determined that they may appoint the Office of Public Counsel for Victims to represent applicants until a decision has been rendered on their applications.⁵⁰

35. The Chambers have also taken diverse approaches to the organization of the legal representation of victims. In some proceedings, the Chambers have permitted victims who have already been admitted to participate to organize counsel of their own choosing.⁵¹ In other proceedings, the Chambers have resorted to the organization of common legal representation.⁵² When arranging common legal representation, some Chambers have organized representation early enough in the proceedings so as to bear upon the victim application process.⁵³

36. In 2011, the Registry “commenced a process of establishing a systematic approach to common legal representation which aims to incorporate”, *inter alia*, “early action on common legal representation” and “meaningful consultation with victims.”⁵⁴ Importantly, the Registry emphasized that “its preferred means of operating would involve a much greater emphasis on discussions with the *applicants* and victim communities.”⁵⁵ As discussed below, the Registry has reiterated, and the Chambers have endorsed, this recommendation in subsequent proceedings.

III. Alternatives to the Standard System

37. As the number of situations and cases before the Court began to grow, so too did the number of victim applications for participation.⁵⁶ The chart below tracks the number of victim applications submitted to the Court by situation and year:⁵⁷

	Victim applications for participation received per year per situation								
	2006	2007	2008	2009	2010	2011	2012	2013	2014
Dem. Rep. of Congo	213	209	273	315	47	1132	0	1670	259
Central African Republic	0	0	139	50	1720	3587	169	64	11
Uganda	49	108	216	277	446	26	24	90	31
Darfur, Sudan	5	18	0	120	114	4	2	1	0
Kenya	---	---	---	0	69	2571	945	427	724
Libya	---	---	---	0	0	1	6	0	6
Côte d'Ivoire	---	---	---	0	0	0	197	123	249
Mali	---	---	---	---	---	---	0	0	119
Registered Vessels	---	---	---	---	---	---	---	140	92
TOTAL	267	335	628	762	2396	7321	1343	2515	1491

38. As the table indicates, the Court experienced a noticeable surge in applications beginning in 2010. The following year, the Court reported to the ASP that the increasing number of victim applications had begun to exert a significant strain on the Court. Specifically, the Court reported that “it would not be possible to continue the current way of operation given the continuous rise in the number of victims participating and existing resources, and that a systemic change was required.”⁵⁸ In December 2011, the ASP responded by

Not[ing] with concern reports from the Court on the continued backlogs the Court has had in processing applications from victims seeking to participate, a situation which might impact on effective implementation of the rights of victims under the

Rome Statute, and *underlin[ing]*, in this regard, the need to consider reviewing the victim participation system with a view to ensuring its sustainability, effectiveness and efficiency.⁵⁹

39. In November 2012, the Court again reported that the increasing “number of victims applying” had “put a strain on the Court”.⁶⁰ In particular, the Court noted that it was experiencing difficulties processing applications in a timely manner so as to keep pace with the proceedings and enable victims to effectively exercise their rights under the Statute.”⁶¹ It pinpointed as “[o]ne of the main reasons for this difficulty . . . the lack of appropriate resources in the Registry, parties, legal representatives of applicants and Chambers to deal with the volume of applications.”⁶²

40. Against this backdrop, several Chambers began in 2012 to devise alternative approaches to the standard victim application system. Summarized below are the key features of each alternative approach.⁶³

A. Early Approaches

41. The Gbagbo Pre-Trial and Kenya Trial Chambers were the first to break away from the Standard System, implementing diverging alternative approaches in 2012.

1. The Gbagbo Pre-Trial System: Exploring a Collective Approach

42. The Pre-Trial Chamber in *Gbagbo* asked the Registry to consider a collective approach as a means of reducing the backlog in processing applications.⁶⁴

43. The Registry submitted that an exclusively collective approach was incompatible with the Rules but proposed a partly collective approach, adopted by the Chamber, whereby:⁶⁵

- *applicants may*
 - *(a) individually submit a Standard Form; or*
 - *(b) join with others to submit a “Group Form”, together with short “Individual Declarations”*⁶⁶
- *all applications – whether individual or collective – are processed and assessed in the same manner as those in the Standard System*

44. The Chamber also adopted the Registry’s proposal to organize common legal representation as soon as possible and instructed the Registry to consult with applicants for this purpose.⁶⁷

2. The Kenya Trial System: Delegating the Assessment of Applications

45. The Trial Chamber in the Kenya Cases took a different approach. It identified that a major inefficiency might stem from the Chamber’s assessment of applications and accordingly devised a system delegating this requirement, as follows:⁶⁸

- *applicants who wish to participate*
 - *(a) without appearing before the Chamber submit a “Registration Form”⁶⁹*
 - *(b) by appearing before the Chamber submit a Standard Form*
- *the Common Legal Representative (“CLR”) determines whether each applicant qualifies as a victim*

46. The Chamber organized common legal representation from the outset of the proceedings and, as indicated above, decided that the CLR would be responsible for the assessment of applications.⁷⁰

B. Review and Adaptation

47. In 2013 and 2014, the Pre-Trial and Trial Chambers in *Ntaganda* respectively implemented two further alternative systems. In developing these systems, they consulted closely with the Registry and asked it to reflect critically on the advantages and disadvantages of the Gbagbo Pre-Trial and Kenya Trial Systems.

1. The Ntaganda Pre-Trial System: Abandoning the Collective Approach

48. In 2013, the Pre-Trial Chamber in *Ntaganda* asked the Registry for its observations on the partly collective approach implemented by the Pre-Trial Chamber in *Gbagbo*.⁷¹

49. The Registry submitted that one clear lesson was that the collective route – *i.e.* applicants grouping themselves to submit a single Group Form – was not always “feasible or advisable”.⁷² It noted that applicants may not be able to group themselves for logistical or security reasons and that the collectivization of applications renders inflexible their processing by permanently fixing applicants within particular groups of victims.⁷³

50. The Registry proposed, and the Chamber accordingly adopted, a system returning to the individual application process but whereby:⁷⁴

- *applicants submit a “Simplified Form”⁷⁵*
- *the Registry groups applications according to various criteria*
- *the applications are otherwise processed and assessed as those in the Standard System*

51. The Chamber also ordered the organization of common legal representation as soon as possible and instructed the Registry to consult with applicants for this purpose.⁷⁶

2. The Ntaganda Trial System: A Hybrid Approach

52. In 2014, the Trial Chamber in *Ntaganda* asked the Registry to reflect more broadly on the Court’s victim application system.⁷⁷

53. The Registry presented what it considered to be two viable options moving forward: (1) the Ntaganda Pre-Trial System or (2) a new hybrid approach.⁷⁸

54. In reflecting on the Ntaganda Pre-Trial System (and more generally on the individual application approach), the Registry submitted that the most time and resource consuming elements have been:⁷⁹

- *assessing applications, which requires the Registry to prepare initial assessments “followed by the Chamber conducting its own review . . . and preparing decisions in light of the observations made by the parties”; and*
- *redacting applications (and initial assessments) for transmission to the parties*

55. The Registry recommended, and the Chamber ultimately adopted, a hybrid approach. This approach effectively blends (a) the Ntaganda Pre-Trial System’s Simplified Form with (b) the Kenya Trial System’s delegation of the Chamber’s assessment of applications:⁸⁰

- *applicants submit a “Simplified Form”*
- *the Registry assesses whether each applicant qualifies as a victim based on principles and criteria established by the Chamber*
- *the Registry transmits all applications, together with a report, to the Chamber*
- *the Registry transmits only those applications for which it could not make a clear determination, together with a report, to the parties, who may make observations*
- *the Chamber assesses those applications for which the Registry could not make a clear determination and ratifies the Registry’s assessments of all other applications barring a clear and material error*

56. The Registry highlighted one critical distinction between the hybrid approach and the Kenya Trial System:

- *the Registry, not the CLR, assesses whether applicants qualify as victims*⁸¹

The Registry submitted that because it operated as a neutral body, this delegation “would provide a greater degree of oversight to the Court, facilitate the work of the legal representatives in the field and ensure that the criteria established by the Chamber are systematically applied by the Court.”⁸²

57. The Chamber opted, following consultations with the victims, to maintain the common legal representation scheme implemented at the pre-trial stage.⁸³

Elements Common to All Four Alternative Victim Application Systems

- *Shorter Application Form:* All four alternative systems limit the amount of information gathered from applicants. In the Gbagbo Pre-Trial System, individuals choosing to join with others also submit short Individual Declarations, linking to the information in the Group Form.⁸⁴ The Registry, in reviewing this approach at the request of the Pre-Trial Chamber in *Ntaganda*, specifically recommended the Individual Declaration as a basis for the Simplified Form.⁸⁵ The Trial Chamber in *Ntaganda* opted to continue using the Simplified Form in implementing a new alternative system. Finally, in the Kenya Trial System, victims who wished to participate without appearing before the Chamber were required to register with the Court. The registration process included the submission of a Registration Form,

which substantively resembles the Individual Declaration and the Simplified Form.⁸⁶

- *Chambers' Delegation of Rule 85 Assessment:* The Chambers in all four alternative systems – as well as Chambers in later Standard System cases – have delegated some or all responsibility for assessing victim applications. Almost all of these Chambers have expanded the Registry's role in reviewing applications to include a rule 85 assessment.⁸⁷ In most instances, such as the Pre-Trial Chamber in the Kenya Situation (Standard System), as well as the Pre-Trial Chambers in *Gbagbo* and *Ntaganda*, the Chambers have instructed the Registry to conduct an initial rule 85 assessment and transmit applications together with the assessment to the Chamber.⁸⁸ The Trial Chamber in *Ntaganda* fully delegated the rule 85 assessment to the Registry, which assesses the applications on the basis of principles and criteria established by the Chamber. While the Registry continues to transmit applications to the Chamber, the Chamber only individually assesses those applications where the Registry cannot make a clear determination.
- *Fewer Redactions:* As a general matter, limiting the information collected from applicants has the corresponding effect of reducing the scope of required redactions. Indeed, the Pre-Trial Chamber in *Ntaganda*, in adopting the Simplified Form, noted that it should “prove significantly instrumental in streamlining the process of redactions . . . ultimately allowing for the transmission of such information to the parties in non-redacted form, to the extent possible.”⁸⁹ The Trial Chamber in *Ntaganda* went one step further, instructing that only Simplified Forms for which the Registry could not make a clear determination be transmitted to the parties, thereby reducing the number of applications requiring redactions. In implementing this approach, the Chamber noted that “the redaction process necessary to provide *all* victim applications to the parties would be ‘time and resource intensive’.”⁹⁰ The Trial Chamber in the Kenya cases went even further, essentially obviating the need for redactions altogether. In the Kenya Trial System, only applications of those who wish to appear before the Chamber (and are authorized to do so) are transmitted to the parties. The Chamber instructed that the applicants' identities should be disclosed to the parties at this stage, indicating that redactions would be largely unnecessary.
- *Early Organization of Common Legal Representation:* All four alternative systems have embraced the organization of common legal representation for victims from the outset of proceedings, in other words, in conjunction with the victim application process. The Pre-Trial Chamber in *Gbagbo* and the Pre-Trial and Trial Chambers in *Ntaganda*, endorsing the approach developed by the Registry in later Standard System cases, instructed the Registry to consult with applicants on the question of legal representation and to propose common legal representation schemes on the basis of those consultations.⁹¹ The Kenya Trial System, while also considering the organization of common legal representation together with the victim application process, contemplated CLRs as playing a critical role in the application process itself.⁹²

¹ The inclusion of such a scheme in the Statute was, in part, a product of developing international standards recognizing greater rights for victims of crimes. This context is reflected in the fact that the language of article 68(3) draws heavily from article 6(b) of the 1985 Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power. GA Res. 40/34. See David Donat-Cattin, “Article 68”, in COMMENTARY ON THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT: OBSERVERS’ NOTES, ARTICLE BY ARTICLE 1279, 1287 (Otto Triffterer ed., 2d ed. 2008); William A. Schabas, “Article 68”, in THE INTERNATIONAL CRIMINAL COURT: A COMMENTARY ON THE ROME STATUTE 821, 827 (2010).

² See Gilbert Bitti & Hakan Friman, “Participation of Victims in the Proceedings”, in THE INTERNATIONAL CRIMINAL COURT: ELEMENTS OF CRIMES AND RULES OF PROCEDURE AND EVIDENCE 456, 456 n. 66 (Roy S. Lee ed., 2001) (noting that “victims in previous military or ad hoc tribunals appeared primarily as witnesses and had no independent role”); see also Donat-Cattin, “Article 68,” *supra* note 1, at 1277 (stating that “the inclusion of norms on victims’ participation in the Court’s proceedings (cf. article 68 para. 3) was the result of widespread and strong criticism against the lack of provisions of this kind in the Statutes and Rules of Procedure and Evidence of the *ad hoc* Tribunals”); Schabas, “Article 68”, *supra* note 1, at 822 (noting that “[a]t Nuremberg, only a few victims actually testified, and their role was insignificant”). The Extraordinary Chambers in the Courts of Cambodia (“ECCC”) and the Special Tribunal for Lebanon (“STL”), which were established after the Court’s founding, have also articulated schemes to permit victims to participate in their respective judicial proceedings. See ECCC, Internal Rules (Rev. 8), rules 23, 91(1) (12 June 2007), as revised 3 Aug. 2011; STL, art. 17, U.N. Doc. S/RES/1757 (30 May 2007). For a description of the victim application processes at the ECCC and STL, see *Report of the Court on the review of the system for victims to apply to participate in proceedings*, ICC-ASP/11/22 (5 Nov. 2012), at Annex.

³ The Court also departed from the *ad hoc* international criminal tribunals established prior to it by recognizing the right of victims to reparations. See David Donat-Cattin, “Article 75”, in COMMENTARY ON THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT: OBSERVERS’ NOTES, ARTICLE BY ARTICLE 1399, 1401 (Otto Triffterer ed., 2d ed. 2008) (“Governmental delegations . . . in Rome . . . created the legal conditions for the first ‘reparation regime’ ever realized in the history of international criminal jurisdiction.”); William A. Schabas, “Article 75”, in THE INTERNATIONAL CRIMINAL COURT: A COMMENTARY ON THE ROME STATUTE 878, 879 (2010) (“[N]o previous international criminal tribunal has had the authority to grant reparations or any other form of compensation or satisfaction to victims of the crimes.”). The right to participate and the right to reparations are distinct, implicating different stages of a judicial proceeding and entailing different considerations. Accordingly, they are addressed in separate articles of the Statute. The present report concerns only the Court’s application system for victim participation; reparations form their own sub-cluster within Cluster D.

⁴ In addition to the general right of victims to participate in Court proceedings under article 68(3), the Statute specifies two particular circumstances where victims may participate. First, article 15(3) provides that “[v]ictims may make representations to the Pre-Trial Chamber, in accordance with the Rules” where the Prosecutor submits a request for authorization of an investigation *proprio motu*. Second, article 19(3) provides that victims may “submit observations to the Court” in “proceedings with respect to jurisdiction or admissibility”. The Rules separately address the respective procedures governing victim participation pursuant to these two articles, which are distinct from the application system for victim participation that is the subject of this report. See rules 50, 59; see also, e.g., *The Prosecutor v. Simone Gbagbo*, PTC I, Decision on the conduct of the proceedings following Côte d’Ivoire’s challenge to the admissibility of the case against Simone Gbagbo, 15 Nov. 2013, ICC-02/11-01/12-15, para. 9; *Situation in the Republic of Côte d’Ivoire*, PTC III, Order to the Victims Participation and

Reparations Section Concerning Victims' Representations Pursuant to Article 15(3) of the Statute, 6 July 2011, ICC-02/11-6.

⁵ In accordance with rule 102, a victim may also submit an application "in audio, video or other electronic form," where he or she "is unable, due to a disability or illiteracy" to communicate in writing.

⁶ RoC 86(2) does provide that "[v]ictims applying for participation in the trial and/or appeal proceedings shall, to the extent possible, make their application to the Registrar before the start of the stage of the proceedings in which they want to participate." Moreover, some Chambers have set deadlines for the submission of applications for participation. *See, e.g., The Prosecutor v. Bosco Ntaganda ("Ntaganda")*, PTC II, Decision Establishing Principles on the Victims' Application Process, 28 May 2013, ICC-01/04-02/06-67, para. 40; *The Prosecutor v. Laurent Gbagbo ("Gbagbo")*, PTC I, Second decision on issues related to the victims' application process, 5 Apr. 2012, ICC-02/11-01/11-86, para. 37.

⁷ Rule 92(2).

⁸ Rule 92(3).

⁹ *Situation in the Democratic Republic of the Congo ("DRC")*, PTC I, Decision on the Applications for Participation in the Proceedings, 17 Jan. 2006, ICC-01/04-101-tEN-Corr, para. 49.

¹⁰ In practice, it is the Victims Participation and Reparations Unit, "a specialized unit dealing with victims' participation and reparations", which receives and processes applications for participation. RoC 86(9).

¹¹ RoR 104(2) permits the Registry to "propose amendments to the standard application forms on the basis of, *inter alia*, experience in using the forms and the context of specific situations." The standard application forms and proposed amendments are subject to approval by the Presidency pursuant to RoC 23(2).

¹² RoR 104(1) further prescribes that the standard application forms and explanatory material "be made available in the language(s) spoken by the victims" and that they are "in a format that is accessible, that can be used by the Court" and that can be stored in an electronic database described in RoR 98. *See infra* note 13.

¹³ The RoR include several regulations directed at protecting the information and communications received from victims. *See* RoR 97-100. RoR 98(1), for example, directs that the Registry "maintain a secure electronic database for the storage and processing of information" and communications received from or in respect of victims.

¹⁴ RoC 86(4).

¹⁵ Pursuant to RoR 109(2), "[t]he format and content of the report . . . shall be determined to the extent possible in consultation with the Chamber."

¹⁶ RoC 86(6).

¹⁷ RoR 99(3).

¹⁸ RoC 86(7) provides that "[b]efore deciding on an application, the Chamber may request . . . additional information from, *inter alia*, States, the Prosecutor, the victims or those acting on their behalf". Pursuant to RoC 86(6), where "information is received from States or the Prosecutor, the Chamber shall provide the relevant victim or victims with an opportunity to respond."

¹⁹ *The Prosecutor v. Thomas Lubanga Dyilo ("Lubanga")*, AC, Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victim' Participation of 18 January 2008, 11 July 2008, ICC-01/04-01/06-1432, para. 61.

²⁰ *Id.*

²¹ *Id.*; *see also* INTERNATIONAL CRIMINAL COURT, VICTIMS BEFORE THE INTERNATIONAL CRIMINAL COURT: A GUIDE FOR THE PARTICIPATION OF VICTIMS IN THE PROCEEDINGS OF THE COURT 13-14 (explaining that Chambers "go through two steps" in determining who can participate: "STEP 1: Is the applicant a victim, according to the ICC's rules" and "STEP 2: If yes, is the

victim entitled to participate at the particular stage of proceedings?”). In a 19 December 2008 decision, the Appeals Chamber interpreted article 68(3) to mean that “[a] person has the right to participate in proceedings if . . . his/her personal interests are affected by the proceedings in hand, i.e. by the issues, legal or factual, raised therein.” *Situation in the DRC*, AC, Judgment on victim participation in the investigation stage of the proceedings, 19 Dec. 2008, ICC-01/04-556, para. 57. The Pre-Trial and Trial Chambers have further clarified that article 68(3)’s reference to victim participation at “stages of the proceedings” refers to “specific procedural activities, those being activities such as the examination of a particular witness or the discussion of a particular piece of evidence.” *The Prosecutor v. Abdallah Banda Abakaer Nourain (“Banda”)*, TC IV, Decision on the participation of victims in the trial proceedings, 20 Mar. 2014, ICC-02/05-03/09-545, paras. 15-16 (emphasis in original). Until the 19 December 2008 Appeals Chamber decision, the Pre-Trial Chambers had accorded victim status to applicants requesting to participate in the investigation stage of a situation. See *Situation in Darfur, Sudan*, Corrigendum to Decision on the Applications for Participation in the Proceedings, 14 Dec. 2007, ICC-02/05-111-Corr, p. 23; *Situation in Uganda*, Decision on victims’ applications for participation, 10 Aug. 2007, ICC-02/04-101, para. 9; *Situation in the DRC*, PTC I, ICC-01/04-101-tEN-Corr, *supra* note 9, at para. 63. The Appeals Chamber decision explicitly held that “an investigation is not a judicial proceeding but an inquiry conducted by the Prosecutor into the commission of a crime” and that a Pre-Trial Chamber “cannot grant the procedural status of victim entailing a general right to participate in the investigation” (although “victims are not precluded from seeking participation in any judicial proceedings . . . affecting investigations, provided their personal interests are affected by the issues arising for resolution”). *Situation in the DRC*, AC, ICC-01/04-556, *supra* note 21, at paras. 45, 56-57. The impact of the decision was to substantially narrow the class of victims permitted to participate in Court proceedings.

²² *The Prosecutor v. Jean-Pierre Bemba Gombo (“Bemba”)*, TC III, Corrigendum to Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings, 12 July 2010, ICC-01/05-01/08-807-Corr, para. 25 (quoting *Lubanga*, TC I, Decision on Victims’ Participation, 18 Jan. 2008, ICC-01/04-01/06-1119, para. 96).

²³ The second step, which addresses the actual nature of victim participation, falls more appropriately within cluster D(2): Participation in the Proceedings. Accordingly, it will be the subject of separate consideration by the WGLL at a later time.

²⁴ See, e.g., *The Prosecutor v. Charles Blé Goudé*, PTC I, Decision on victims’ participation in the pre-trial proceedings and related issues, 11 June 2014, ICC-02/11-02/11-83, para. 13 (citing *Gbagbo*, PTC I, Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, para. 20; *Bemba*, TC III, Decision on 772 applications by victims to participate in the proceedings, 18 Nov. 2010, ICC-01/05-01/08-1017, para. 38; *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus (“Banda & Jerbo”)*, PTC I, Decision on Victims’ Participation at the Hearing on the Confirmation of the Charges, 29 Oct. 2010, ICC-02/05-03/09-89, para. 2); *Ntaganda*, PTC II, Decision on Victims’ Participation at the Confirmation of Charges Hearing and in the Related Proceedings, 15 Jan. 2014, ICC-01/04-02/06-211, para. 18 (citing, *inter alia*, *The Prosecutor v. Bahar Idriss Abu Garda*, (“*Abu Garda*”) PTC I, Decision on the 34 Applications for Participation at the Pre-Trial Stage of the Case, 25 Sept. 2009, ICC-02/05-02/09-121, para. 11; *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen*, (“*Kony et al.*”) PTC I, Decision on victims’ applications for participation, 10 Aug. 2007, ICC-02/04-01/05-252, para. 12; *Situation in the DRC*, PTC I, ICC-01/04-101-tEN-Corr, *supra* note 9, at para. 79). The criteria for establishing that an organization or institution qualifies as a victim pursuant to rule 85(b) are substantively similar. See, e.g., *Banda and Jerbo*, PTC I, ICC-02/05-03/09-89, *supra* note 24, at para. 45; *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui (“Katanga & Ngudjolo”)*, TC II,

Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims, 23 Sept. 2009, ICC-01/04-01/07-1491-Red-tENG, para. 57. A person bringing an application on behalf of an organization or institution must “submit . . . relevant documents in order to prove his or her identity and his or her *locus standi* to act on its behalf.” *Bemba*, TC III, ICC-01/05-01/08-1017, *supra* note 24, at para. 45.

²⁵ See, e.g., *Ntaganda*, PTC II, ICC-01/04-02/06-211, *supra* note 24, at para. 19; *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 21; *Banda*, TC IV, Decision on 19 applications to participate in the proceedings, 12 Dec. 2013, ICC-02/05-03/09-528, at para. 22. Such an analysis “‘will not consist in assessing the credibility of the [applicants’] statement[s] or engaging in a process of corroboration *stricto sensu*’ but will assess the applicants’ statements first and foremost on the merits of their intrinsic coherence, as well as on the basis of the information otherwise available to” the Chamber. *Abu Garda*, PTC I, ICC-02/05-02/09-121, *supra* note 24, at para. 14 (quoting *Situation in the DRC*, ICC-01/04-101-tEN-Corr, *supra* note 9, at para. 101); see also *Kony et al.*, AC, Judgment on the appeals of the Defence against the decisions entitled “Decision on victims’ applications for participation” of Pre-Trial Chamber II, 23 Feb. 2009, ICC-02/04-179, para. 38.

²⁶ The Chambers have typically permitted applicants to submit a relatively broad variety of documents. See, e.g., *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*, (“Muthaura, Kenyatta & Ali”) PTC II, First Decision on Victims’ Participation in the Case, 31 Mar. 2011, ICC-01/09-02/11-23, paras. 7-8 (accepting as proof of identity “(i) Passport; (ii) National Identity Card; (iii) Birth Certificate; and (iv) Driver’s Licence” and “[i]n case such documentation is not available to victim applicants . . . (i) National ID Waiting Card; (ii) Chief’s Identification Letter which provides certain basic information: (a) the full name, date and place of birth, and gender of the victim applicant; and (b) the name of the Chief, his or her signature and the use of an official stamp; (iii) Notification of Birth Cards (for minors); (iv) Clinic Cards (for minors); (v) Kenya Police Abstract Form (for lost national identity cards or Kenyan passports); (vi) a signed declaration from two witnesses attesting to the identity of the victim applicant”); *Bemba*, TC III, ICC-01/05-01/08-1017, *supra* note 24, at paras. 41-43 (“[W]hile determining whether the applicant is a ‘natural or legal person,’ the Chamber ‘will seek to achieve a balance between the need to establish an applicant’s identity with certainty, on the one hand, and the applicant’s personal circumstances, on the other. In this regard, the Chamber notes that . . . numerous CAR citizens, living in rural areas, do not possess any official identity document and that others face difficulties in obtaining identity documents . . . Therefore, whenever the documents appended by the applicants have similar features as the ones listed above and the Chamber is satisfied that at this stage they sufficiently establish the applicants’ identity, they will be accepted as proof of identity.”)

²⁷ Compare, e.g., *Katanga & Ngudjolo*, TC II, Decision on the treatment of applications for participation, 26 Feb. 2009, ICC-01/04-01/07-933-tENG, para. 39 (“The Chamber observes that the provisions of rule 89(3) of the Rules do not preclude a minor from applying on his or her own behalf to participate in the proceedings as a victim.”) with *Situation in Uganda*, PTC II, Decision on victims’ applications for participation, 21 Nov. 2008, ICC-02/04-172, para. 20 (“[I]t has to be noted that both Applicants were minor not only at the time when the relevant events took place, but also at the time of the submission of the application. Accordingly, since their applications should have been presented by somebody acting on their behalf, [they] are not granted the status of victim of the Case.”).

²⁸ Compare, e.g., *Kenyatta et al.*, PTC II, Decision on Victims’ Participation at the Confirmation of Charges Hearing and in the Related Proceedings, 26 Aug. 2011, ICC-01/09-02/11-267, para. 47 (“[T]he [Chamber] is of the view that a deceased person cannot participate, through his or her relatives, in the proceedings before the Court. Therefore, an application for participation

cannot be submitted on behalf of a deceased person.”) *with Bemba*, TC III, ICC-01/05-01/08-807-Corr, *supra* note 22, at para. 83 (“Given that legal representatives can act for participating victims under Article 68(3) of the Statute, it is an unexceptional extension of that approach to allow an appropriate individual . . . to provide the Chamber with relevant information (reflecting the views and concerns of the victim who died), whether through counsel or otherwise.”).

²⁹ *Ntaganda*, PTC II, ICC-01/04-02/06-211, *supra* note 24, at para. 25; *see also Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 27; *Banda*, TC IV, ICC-02/05-03/09-528, *supra* note 25, at para. 21.

³⁰ *See Lubanga*, AC, ICC-01/04-01/06-1432, *supra* note 19, at paras. 31-32; *see also Ntaganda*, PTC II, ICC-01/04-02/06-211, *supra* note 24, at paras. 28-33; *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at paras. 28-30.

³¹ *Lubanga*, AC, ICC-01/04-01/06-1432, *supra* note 19, at paras. 30, 32.

³² *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 31; *see also Ntaganda*, PTC II, ICC-01/04-02/06-211, *supra* note 24, at para. 29; *Bemba*, PTC III, Fourth Decision on Victims’ Participation, 12 Dec. 2008, ICC-01/05-01/08-320, para. 77.

³³ *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 31; *see also Bemba*, PTC III, ICC-01/05-01/08-320, *supra* note 32, at para. 76 (“[T]he circumstances surrounding the crime(s) . . . must be appropriate to bring about the harm alleged and are not entirely outside the range of expectation or probability, as viewed *ex post* by an objective observer.”); *see also Abu Garda*, PTC I, ICC-02/05-02/09-121, *supra* note 24, at para. 13 (finding that “the alleged harm will be held as ‘resulting from’ the alleged incident when the spatial and temporal circumstances surrounding the appearance of the harm and the occurrence of the incident seem to overlap, or at least to be compatible and not clearly inconsistent”); *Lubanga*, TC I, ICC-01/04-01/06-1119, *supra* note 22, at para. 99 (“[T]he Chamber will merely ensure that there are, *prima facie*, credible grounds for suggesting that the applicant has suffered harm as a result of a crime committed within the jurisdiction of the Court.”).

³⁴ *See, e.g., Bemba*, TC III, Decision defining the status of 54 victims who participated at the pre-trial stage, and inviting the parties’ observations on applications for participation by 86 applicants, 22 Feb. 2010, ICC-01/05-01/08-699, paras. 17-22 (holding that automatic authorization is permitted pursuant to RoC 86(8), which provides that a decision on an application to participate “shall apply throughout the proceedings in the same case, subject to the powers of the relevant Chamber in accordance with rule 91, sub-rule 1”). Those Chambers that permit automatic authorization do carve out an exception for those applicants who allege harm suffered that “was not, *prima facie*, the result of the commission of at least one crime within the charges confirmed by the Pre-Trial Chamber.” *Bemba*, TC III, ICC-01/05-01/08-699, *supra* note 34, at para. 19.

³⁵ *See, e.g., Lubanga*, TC I, ICC-01/04-01/06-1119, *supra* note 22, at para. 112 (“The victims who have the opportunity to participate . . . are those who currently have been allowed to participate by Pre-Trial Chamber I . . . subject to a review by the Chamber of their applications to participate . . .”).

³⁶ Rule 90, RoC 79-80, and RoR 112 elaborate further on the appointment of legal representatives for victims.

³⁷ This section of the report discusses the Standard System by primarily referencing the decisions in *Lubanga*, *Katanga & Ngudjolo*, and *Bemba*. *See, e.g., Bemba*, TC III, ICC-01/05-01/08-807-Corr, *supra* note 22; *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-933-tENG, *supra* note 27; *Bemba*, PTC III, ICC-01/05-01/08-320, *supra* note 32; *Katanga & Ngudjolo*, PTC I, Decision on the Applications for Participation in the Proceedings of Applicants, 2 Apr. 2008, ICC-01/04-01/07-357; *Lubanga*, TC I, ICC-01/04-01/06-1119, *supra* note 22; *Lubanga*, PTC I, Decision on the

Applications for Participation in the Proceedings, 29 June 2006 (notified on 20 July 2006), ICC-01/04-01/06-172.

³⁸ For the most up-to-date version of the Standard Form, see Annex C. The Court originally required victims to submit “separate application forms for participation and reparation” but in October 2010 instituted “a joint application form”, whereby an applicant can “indicate whether his/her application related to participation, reparations or both.” Bureau of the ASP, *Report of the Bureau on victims and affected communities and Trust Fund for Victims*, ICC-ASP/10/31 (22 Nov. 2011), at para. 19. A separate but substantively similar form exists for organizations applying to participate as victims in judicial proceedings. See Annex D. Both forms are available on the Court’s website and are also provided upon request by the Registry. The Standard Forms were designed by the Registry and approved by the Presidency, pursuant to RoC 23(2). See *supra* note 11.

³⁹ In undertaking this assessment, the Registry applies the standards as “spelled out” by the Chamber. *Situation in the Republic of Kenya*, PTC II, Decision on Victims’ Participation in Proceedings Related to the Situation in the Republic of Kenya, 3 Nov. 2010, ICC-01/09-24, para. 19; see also, e.g., *Bemba*, TC III, ICC-01/05-01/08-699, *supra* note 34, at paras. 35-36.

⁴⁰ See, e.g., *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-933-tENG, *supra* note 27, at para. 19 (“[T]he Chamber . . . alone [is] in a position to assess, on a case-by-case basis, the merits of the applications transmitted to it.”); *Lubanga*, TC I, Decision on the implementation of the reporting system between the Registrar and the Trial Chamber in accordance with Rule 89 and Regulation of the Court 86(5), 9 Nov. 2007, ICC-01/04-01/06-1022, para. 20 (stating that the Registry’s reports on its review of the applications “should not contain any comment or expression of views on the overall merits of the application to participate”). The Registry also follows up on incomplete applications. See *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-933-tENG, *supra* note 27, at para. 25; *Bemba*, PTC III, ICC-01/05-01/08-320, *supra* note 32, at para. 80 (“The [Chamber] emphasises that for efficiency purposes it is the responsibility of the Registry . . . to ensure that *all* applications are filled in with pertinent information and completely and, in case of missing information, request such information or documentation in time before the application is submitted to the relevant Chamber.”).

⁴¹ See, e.g., *Situation in the Republic of Kenya*, PTC II, Decision on Victims’ Participation in Proceedings Related to the Situation in the Republic of Kenya, 3 Nov. 2010, ICC-01/09-24, paras. 19-20 (“The [Registry] will . . . perform an analysis of the applications following the requirements of rule 85 of the Rules. . . . The initial rule 85 assessment will be subject to the Chamber’s final determination.”); *Bemba*, TC III, ICC-01/05-01/08-699, *supra* note 34, at pages 21-22 (“[T]he Trial Chamber should receive only those completed applications that appear, *prima facie*, to be linked with the charges confirmed against the accused.”); see also ICC-ASP/11/22, *supra* note 2, at para. 9 n. 11 (reporting to the ASP in November 2012 that the Registry “has been tasked by the Court to conduct an initial assessment of the applications in light of Rule 85 RPE”). It should be noted that the Trial Chamber in *Bemba* instructed the Registry to refrain from transmitting applications that appear *prima facie* not to meet the rule 85 requirements and instead to file “a report indicating the reasons why the application was not filed with the Chamber.” *Bemba*, TC III, ICC-01/05-01/08-699, *supra* note 34, at para. 37. By contrast, the Pre-Trial Chamber in the Kenya situation instructed the Registry to continue transmitting copies of all completed applications to the Chamber, regardless of its *prima facie* rule 85 assessments. *Situation in the Republic of Kenya*, PTC II, ICC-01/09-24, *supra* note 41, at paras. 20-21.

⁴² See, e.g., *Lubanga*, TC I, ICC-01/04-01/06-1022, *supra* note 40, at para. 19. In *Lubanga*, the Trial Chamber requested that the Registry group “applications in one report when there are links founded on such matters as time, circumstance or issue”. *Id.* This request presaged the more

explicit grouping of applications in later systems. See Annex A, Parts I & III (discussing the Gbagbo Pre-Trial System and the Ntaganda Pre-Trial System).

⁴³ See, e.g., *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-933-tENG, *supra* note 27, at para. 4 (noting that this format “has been used by Pre-Trial Chambers I, II and III and Trial Chamber I”).

⁴⁴ *Id.* at paras. 5-6.

⁴⁵ The Chambers have instructed the Registry that “the scope of redactions should not be excessive and cannot exceed what is strictly necessary . . . and must allow for a meaningful exercise by the Prosecution and the Defence of their right to reply to the application for participation”. See *Bemba*, PTC III, Second Decision on the question of victims’ participation requesting observations from the parties, 23 Oct. 2008, ICC-01/05-01/08-184, para. 15; see also, e.g., *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-933-tENG, *supra* note 27, at para. 52 (“The Chamber concurs with the reasoning of Trial Chamber I . . . in *Lubanga*, and will see to it that the principle of proportionality is scrupulously applied, by satisfying itself that the redactions only restrict the rights of the accused to the extent necessary, and that they constitute the only possible and sufficient measure.”). The Chambers have typically required that both parties receive redacted copies in the Standard System, even in circumstances where the Prosecutor has requested unredacted copies. See, e.g., *id.* at para. 53 (“The Chamber . . . concurs with the conclusion of Trial Chamber I . . . whereby the principle of equality of arms requires that the same versions be disclosed to the Prosecution and to the Defence.”); *Bemba*, PTC III, ICC-01/05-01/08-184, *supra* note 45, at paras. 12-14 (holding that both parties must receive redacted copies of victim applications in order to, *inter alia*, “respect[] the principle of fair and equal treatment of the Prosecutor and the Defence”); *Lubanga*, TC I, Decision inviting the parties’ observations on applications for participation, 6 May 2008, ICC-01/04-01/06-1308, para. 30 (“Redacted applications are to be transmitted to both parties alike in light of fundamental considerations of fairness (namely, the need to preserve the equality of arms) . . .”). In later systems, however, the Chambers have permitted the Prosecutor to obtain unredacted copies of the victim applications from the Registrar. See Annex A, paras. 4, 9, 19, 32 & accompanying notes.

⁴⁶ See, e.g., *Bemba*, PTC III, ICC-01/05-01/08-184, *supra* note 45, at para. 6 (noting receipt of a “confidential *ex parte*” report on victims applications filed by the Registrar); *Katanga & Ngudjolo*, PTC I, Public Redacted Version of the “Decision on the 97 Applications for Participation at the Pre-Trial Stage of the Case”, 10 June 2008, ICC-01/04-01/07-579, pp. 5-6 (noting receipt of several “confidential and *ex parte*” reports on victims’ applications filed by the Registrar); *Lubanga*, TC I, ICC-01/04-01/06-1022, *supra* note 40, at paras. 21-27 (“[T]he reports prepared by the [Registry] are not to be provided to the parties and participants unless the Trial Chamber orders otherwise.”).

⁴⁷ See, e.g., *Bemba*, PTC III, ICC-01/05-01/08-184, *supra* note 45, at para. 8; *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-933-tENG, *supra* note 27, at para. 54 (citing *Lubanga*, TC I, ICC-01/04-01/06-1308, *supra* note 45, at paras. 33-34).

⁴⁸ See, e.g., *Bemba*, TC III, ICC-01/05-01/08-1017, *supra* note 24, at para. 36 (“A case-by-case analysis of each application for participation is appended thereto and should thus be read in conjunction with the present decision.”); *Katanga & Ngudjolo*, TC II, ICC-01/04-01/07-1491-Red-tENG, *supra* note 24, at para. 19; *Lubanga*, TC I, ICC-01/04-01/06-1119, *supra* note 22, at para. 84.

⁴⁹ See, e.g., *Situation in the DRC*, PTC I, Decision on the Requests of the Legal Representative of Applicants on Application Process for Victims’ Participation and Legal Representation, 17 Aug. 2007, ICC-01/04-374, para. 42 (holding that Rule 90 and RoC 80-81, which pertain to the legal representation of victims, “refer to persons who have been accorded the procedural status of victims to participate”); *Kony et al.*, PTC II, Decision on legal representation,

appointment of counsel for the defence, protective measures and time-limit for submission of observations on applications for participation, 1 Feb. 2007, ICC-02/04-01/05-134, paras. 11-12 (“[A]pplicant victims cannot claim to have an absolute and unconditional right to be provided with the assistance of a legal representative in respect of the phase preceding the Chamber’s decision on the merits of the application.”).

⁵⁰ See, e.g., *Bemba*, TC III, Decision on the Observations on legal representation of unrepresented applicants, 9 Dec. 2009, ICC-01/05-01/08-651, para. 18 (ordering that OPCV shall continue to represent the victim applicants it currently represents and those “who have not chosen a legal representative until a decision is made on their application to participate”); *Bemba*, PTC III, Decision on Victim Participation, 12 Sept. 2008, ICC-01/05-01/08-103-tENG, p. 5 (instructing that “where no legal representative has been appointed by the victims, the Office of Public Counsel for Victims shall, as assigned by the Registry, act as legal representative of the victims *from the time they submit their applications for participation*”) (emphasis added).

⁵¹ At the pre-trial stage in *Lubanga*, for example, the Pre-Trial Chamber authorized four victims, three of whom were represented by one legal team and one of whom was separately represented by another legal representative, to participate in the confirmation of charges hearing. See *Lubanga*, PTC I, Decision on applications for participation in proceedings in the case of *Lubanga*, 20 Oct. 2006, ICC-01/04-01/06-601-tEN. Similarly, at the pre-trial stage in *Banda & Jerbo*, the Pre-Trial Chamber authorized 89 victims, represented by five separate legal teams, to participate in the pre-trial proceedings. See *Banda & Jerbo*, Registry, ICC-02/05-03/09-134, *supra* note 51, at paras. 3, 6.

⁵² At the pre-trial stage in *Bemba*, for example, the Pre-Trial Chamber held that

in application of rule 90(2) of the Rules, and considering the number of victims recognised as participants in the present case, a presentation of their views and concerns by a single common legal representative is deemed appropriate in order to ensure effectiveness of pre-trial proceedings.

Bemba, PTC III, Fifth Decision on Victims’ Issues Concerning Common Legal Representation of Victims, 16 Dec. 2008, ICC-01/05-01/08-322, para. 7. Similarly, at the trial stage in *Katanga & Ngudjolo*, the Trial Chamber held “it both necessary and appropriate to group all victims who have been admitted to participate in this case, with the exception of [a small group of former child soldiers], into one group represented by one common legal representative.” *Katanga & Chui*, TC II, Order on the organisation of common legal representation of victims, 22 July 2009, ICC-01/04-01/07-1328, para. 13.

⁵³ For example, in *Bemba*, having observed that approximately 1200 applications for participation remained pending, the Trial Chamber endorsed the Registry’s proposal “for grouping the victim applicants.” *Bemba*, TC III, Decision on Common Legal Representation of Victims for the Purpose of Trial, 10 Nov. 2010, ICC-01/05-01/08-1005, paras. 6, 18-21.

⁵⁴ The Registry undertook this process in the context of preparations for pre-trial proceedings in *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey & Joshua Arap Sang* (“*Ruto, Kosgey & Sang*”) / *Muthaura, Kenyatta & Ali* and trial proceedings in *Banda & Jerbo*. *Ruto, Kosgey & Sang*, Registry, Proposal for the common legal representation of victims, 1 Aug. 2011, ICC-01/09-01/11-243, para. 3; see also *Banda & Jerbo*, Registry, Report on the organization of common legal representation, 5 Aug. 2011, ICC-02/05-03/09-187; *Muthaura, Kenyatta & Ali*, Registry, Proposal for the Common Legal Representation of Victims, 1 Aug. 2011, ICC-01/09-02/11-214.

⁵⁵ See *Ruto, Kosgey & Sang*, Registry, ICC-01/09-01/11-243, *supra* note 54, at para. 8 (emphasis added).

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- ⁵⁶ In 2011, the Registry reported that the proliferation in applications was due not only “to the increase in the number of situations and cases” but “also to the scope of the charges in each case.” ICC-ASP/10/31, *supra* note 38, at para. 22 n.8.
- ⁵⁷ The Registry records the number of applications received by situation, rather than by case, as applicants do not always specify which case(s) they wish to participate in and, in some instances, a case to which a victim may be linked may open after an application is received.
- ⁵⁸ ICC-ASP/10/31, *supra* note 38, at para. 22.
- ⁵⁹ ASP Res. ICC-ASP/10/Res.5, 10th Sess. (21 Dec. 2011), para. 49 (emphasis in original).
- ⁶⁰ ICC-ASP/11/22, *supra* note 2, at paras. 5-6, 12-13.
- ⁶¹ *Id.* at para. 6.
- ⁶² *Id.*
- ⁶³ The elements of each alternative system are explored in greater detail in Annex A.
- ⁶⁴ *Gbagbo*, PTC III, Decision on issues related to the Victims’ application process, 6 Feb. 2012, ICC-02/11-01/11-33, para. 1.
- ⁶⁵ *Gbagbo*, Registry, Organization of the Participation of Victims, 6 Feb. 2012, ICC-02/11-01/11-29-Red; *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 6.
- ⁶⁶ See Annexes E-F.
- ⁶⁷ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 6, at para. 44.
- ⁶⁸ *Ruto & Sang*, TC V, Decision on victims’ representation and participation, 3 Oct. 2012, ICC-01/09-02/11-460; *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*, Decision on victims’ representation and participation, 3 Oct. 2012, ICC-01/09-02/11-498. The two decisions are substantively similar; accordingly, the analysis of the Kenya Trial System will henceforth cite only to the *Ruto & Sang* decision.
- ⁶⁹ See Annex G.
- ⁷⁰ *Ruto & Sang*, TC V, ICC-01/09-02/11-460, *supra* note 68, at paras. 41-43.
- ⁷¹ *Ntaganda*, PTC II, Decision Requesting the Victims Participation and Reparations Section to Submit Observations, 26 Apr. 2013, ICC-01/04-02/06-54, paras. 3-5.
- ⁷² *Ntaganda*, Registry, Registry Observations in compliance with the Decision ICC-01/04-02/06-54-Conf, 6 May 2013, ICC-01/04-02/06-57, para. 8.
- ⁷³ *Id.* at paras. 9-10.
- ⁷⁴ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 6.
- ⁷⁵ See Annex H.
- ⁷⁶ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 6, at paras. 45-46.
- ⁷⁷ *Ntaganda*, TC VI, Order Scheduling a Status Conference and Setting a Provisional Agenda, 21 July 2014, ICC-01/04-02/06-339, para. 5, p. 6.
- ⁷⁸ *Ntaganda*, Registry submission to “Order Scheduling a Status Conference and Setting a Provisional Agenda”, 14 Aug. 2014, ICC-01/04-02/06-350.
- ⁷⁹ *Id.*
- ⁸⁰ *Id.* at para. 15; *Ntaganda*, TC VI, Decision on victims’ participation in trial proceedings, 6 Feb. 2015, ICC-01/04-02/06-449, para. 32.
- ⁸¹ *Ntaganda*, Registry, ICC-01/04-02/06-350, *supra* note 78, at para. 21.
- ⁸² *Id.*
- ⁸³ *Ntaganda*, TC II, Second decision on victims’ participation in trial proceedings, 16 June 2015, ICC-01/04-02/06-650, paras. 28-32.
- ⁸⁴ See Annex F.
- ⁸⁵ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 6, para. 9; see Annex H.
- ⁸⁶ See Annex G.
- ⁸⁷ The one exception is the Kenya Trial System, where the Trial Chamber vested the CLR with the responsibility of ensuring that applicants fulfil the rule 85 criteria.

⁸⁸ See para. 28 & n.42 and Annex A, paras. 4, 8, 30. The Trial Chamber in *Bemba* (Standard System), diverged slightly from this approach, instructing the Registry to only transmit complete applications appearing *prima facie* to meet the rule 85 requirements, together with its assessment. *Bemba*, TC III, ICC-01/05-01/08-699, *supra* note 34, at para. 37.

⁸⁹ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 6, para. 22.

⁹⁰ *Ntaganda*, TC VI, ICC-01/04-02/06-449, *supra* note 80, para. 28 (emphasis added).

⁹¹ See Annex A, paras. 11, 34, 48 and accompanying notes.

⁹² See *id.* at paras. 16-23. Specifically, the Kenya Trial System provides that CLRs are to assess whether applicants fulfil the rule 85 criteria.

LIST OF ANNEXES

Annex A : The Application System for Victim Participation in Practice:
Four Alternatives to the Standard System

Annex B : A Comparison Chart of Victim Application Systems

Annex C : Standard Form for Individuals (Standard System)

Annex D : Standard Form for Organisations (Standard System)

Annex E : Group Form (Gbagbo Pre-Trial System)

Annex F : Individual Declaration (Gbagbo Pre-Trial System)

Annex G : Registration Form (Kenya System)

Annex H : Simplified Form (Ntaganda Pre-Trial and Trial Systems)

Annex A



25 August 2015

**The Application System for Victim Participation in Practice:
Four Alternatives to the Standard System**

Table of Contents

I.	The Gbagbo Pre-Trial System	2
A.	Individual Applications	2
B.	Collective Applications	2
C.	Common Legal Representation	3
II.	The Kenya Trial System	3
A.	Registration	4
B.	Individual Applications	5
C.	Common Legal Representation	5
III.	The Ntaganda Pre-Trial System	5
A.	The Application Process	7
B.	Common Legal Representation	8
IV.	The Ntaganda Trial System	8
A.	The Application Process	10
B.	Common Legal Representation	11

I. The Gbagbo Pre-Trial System

1. The Pre-Trial Chamber in *Gbagbo* was the first to experiment with a new application system for victim participation. In January 2012, the Chamber convened a meeting with the Registry to discuss “the victims’ application process and to explore different options, including, in particular, the possibility of applying a collective approach to victims’ applications for participation”.¹ The Chamber specifically noted that “the existing backlog in processing victims’ applications in other cases” made it “imperative to put in place a system that is adequate to deal with numerous applicants.”²

2. In a 6 February 2012 filing, the Registry observed that it had “started to explore alternative options for dealing with victims’ participation with the aim of addressing the issues raised by the ASP, including the possibility of a collective application process.”³ The Registry noted that “an exclusively collective approach” appeared incompatible with the Rules.⁴ It observed, however, that a partly collective approach, exemplified by a “collective form, if properly thought [out], may reduce the amount of work involved in the victim application process”, including for “the Chamber and the Parties”.⁵ It also proposed that the Chamber organize “common legal representation for participating victims . . . at the initial stage of a case”, in line with the systematic approach developed by the Registry in earlier cases, “in order to ensure efficient but meaningful participation of victims during the whole proceedings.”⁶

3. The Chamber accordingly proposed, in line with the Registry’s recommendation, implementing a system whereby applicants have the choice of applying for participation on an individual basis or as part of a group.⁷

A. Individual Applications

4. Applicants choosing to apply on an individual basis follow the Standard System. They submit a Standard Form to the Registry.⁸ The Registry reviews the Standard Forms for completeness and conducts an initial assessment of whether applicants meet the requirements of rule 85.⁹ It then transmits the Standard Forms, together with a report, which “is not to be provided to the parties and participants”, to the Chamber.¹⁰ It also transmits copies of the Standard Forms to the parties (redacted for the Defence, unredacted for the Prosecutor), who are entitled to make observations.¹¹ The Chamber assesses and makes a determination on each individual application.

B. Collective Applications

5. While preserving the option for applicants to apply on an individual basis, the Gbagbo Pre-Trial System encourages applicants “to join with others so that a single application is made by a person acting on their behalf”.¹² Applicants whose relevant experiences share common elements, such as “the recollection of the events” and the harm suffered, submit a collective form (“Group Form”), developed by the Registry “to enhance the management of the application process”.¹³ Applicants applying for participation through the Group Form do not apply for reparations as part of the collective application, but can do so individually at a later, appropriate stage.¹⁴

6. Applicants who join with others in a group may “provide their consent for a third person (“contact person”) to make a joint single application for all of them.”¹⁵ The role of this contact person is “limited to the submission of the application,” although the person may “assist in further communications between the Court and the victims, if needed.”¹⁶

7. Each applicant in the group also submits a short individual declaration (“Individual Declaration”), which links to the information provided in the Group Form.¹⁷ The Individual Declaration gives applicants “an opportunity . . . to provide particularities of their situation that may not be entirely reflected in the Group Form.”¹⁸ Such particularities may include, for example, a description of the individual harm, the events leading to such harm, and the date(s) and location(s) where the harm occurred.¹⁹

8. The Registry reviews the Group Forms and Individual Declarations for completeness and conducts an initial assessment of whether applicants meet the requirements of rule 85.²⁰ It then transmits the Group Forms and Individual Declarations to the Chamber, together with a report.²¹ The format and content of the report, similar to that prepared by the Registry in the Standard System, includes information “in relation to each applicant,” presented “in accordance with the requirements of Rule 85 of the Rules, including the location, time and the specific alleged event and the resultant harm suffered by the applicants.”²²

9. The Registry also transmits copies of the Group Forms and Individual Declarations to the parties (redacted for the Defence, unredacted for the Prosecutor), who are entitled to make observations.²³

10. The Chamber assesses and makes a determination on each individual applicant, on the basis of the information provided in the Individual Declarations.²⁴ While applicants submit the Group Forms and Individual Declarations collectively, those who are “admitted to participate” do so “as individuals and . . . act on their own behalf”.²⁵

C. Common Legal Representation

11. The Chamber also adopted the Registry’s proposal to organize “common legal representation . . . as soon as possible.”²⁶ To this effect, it instructed the Registry “to consult with applicants as to their wishes with regard to legal representation, to assess whether they could be further grouped for the purposes of common legal representation in accordance with Rule 90 of the Rules, and to provide recommendations to the Chamber”.²⁷

12. The Chamber subsequently endorsed the Registry’s recommendation that “all victims in the present case . . . be represented by a single legal team” and its proposal for a “team structure . . . comprised of (i) a principal counsel; (ii) a team member based in the field and (iii) a case manager.”²⁸ The Chamber also proposed, however, that “in light of the short time remaining until the . . . confirmation hearing, . . . a Counsel from the OPCV should be appointed as the lead Counsel . . . and that such Counsel should be assisted by a team member with wide knowledge of the context and based in Côte d’Ivoire.”²⁹

II. The Kenya Trial System

13. The Trial Chamber in the Kenya cases was next to implement a new application system for victim participation.³⁰ In a 3 October 2012 decision articulating this new approach, the

Chamber observed that it “must ensure that [victim] participation does not unduly delay the proceedings or limit the accuseds’ preparation of their defence due to the time and resources required for reviewing, and submitting observations on, victims’ applications.”³¹ The Chamber then proceeded to note that this particular case involved “a large number of victims . . . and also unprecedented security concerns and other difficulties that may be associated with the completion of a detailed application form”.³² In light of these circumstances, the Chamber concluded that “requiring all victims to comply with the application procedure set out in Rule 89 of the Rules is not appropriate, nor is it necessary, in order to implement Article 68(3)”.³³

14. The Chamber’s alternative approach differentiates between “victims who wish to participate without appearing before the Chamber” and “victims who wish to present their views and concerns individually by appearing directly before the Chamber”.³⁴ The implementation of this approach relies on common legal representation, which is organized from the outset.³⁵

15. The Chamber explained that this approach would “require considerably less time and resources to be spent by the Chamber and the parties on processing and assessing victims’ requests for participation.”³⁶ In particular, the Chamber highlighted that

if all victims were required to submit application forms under Rule 89 of the Rules, the extent of the redaction applied to most of the application forms would be considerable, due to potential security concerns, and those applications would be assessed by the Chamber on a *prima facie* evidentiary standard. The Chamber is of the view that the use of such extensive resources by the Chamber, the parties and the Court as a whole would not be justified in light of the provisional nature of the Chamber’s individual assessments.³⁷

A. Registration

16. Applicants “who wish to participate without appearing before the Chamber . . . register with the Court as victim participants”.³⁸ The Chamber highlighted that “[t]he registration process will be considerably less detailed and onerous than the application forms required by Rule 89(1) . . . and [RoC] 86”.³⁹ Applicants register with the Court by submitting their “names, contact details as well as information as to the harm suffered” via a registration form (“Registration Form”) to the Registry.⁴⁰ The Registry enters this information into a database, which it “administer[s] and make[s] accessible to the” CLR designated by the Chamber.⁴¹

17. In addition, the Chamber observed that “despite the adoption of this significantly simplified system, there may still be instances where registration is not possible for the victims concerned.”⁴² It held, accordingly, that “the views and concerns of victims who choose not to register or who are, for practical or security reasons barred from doing so, shall nevertheless be voiced, in a general way, through” the CLR.⁴³

18. The CLR is responsible for representing the views and concerns of all victims who do not wish to present their views and concerns individually to the Chamber, “regardless of whether they have registered or not”.⁴⁴ As part of this responsibility, the CLR “ensure[s] that the views and concerns he or she represents are those of all individuals qualifying as victims” and that he or she does “not . . . take into consideration the views and concerns of persons

whom he or she has reason to believe do not qualify as victims".⁴⁵ Thus, it is the CLR, rather than the Chamber, who performs the rule 85 assessment of these victims.

19. The Registry is responsible for periodically providing the Chamber with "detailed statistics about the victims' population", which are "appended to a comprehensive report on the general situation of the victims as a whole, including both registered and non-registered victims."⁴⁶ This report is prepared in cooperation with the CLR who provides the Registry "with detailed information relating to his or her activities amongst the victims".⁴⁷ It is filed publicly and is therefore available in unredacted form to the parties.⁴⁸

B. Individual Applications

20. Those applicants "who wish to present their views individually by appearing directly before the Chamber . . . may be allowed to do so at various stages of the [proceedings] and in a manner to be determined by the Chamber."⁴⁹ The CLR "submit[s] a request on behalf of these individuals, explaining why they are considered to be best placed to reflect the interests of the victims, together with a detailed summary of the aspects that will be addressed by each victim if authorised to present his or her views and concerns."⁵⁰ These applicants also submit a Standard Form to the Registry, which reviews them for completeness before transmitting them to the Chamber.⁵¹

21. The Chamber does not conduct an individualized assessment of whether these applicants qualify as victims. Rather, the Chamber "[o]n the basis of these applications, in conjunction with the [CLR]'s filing, . . . make[s] a preliminary assessment as to whether the suggested form of participation is appropriate and identif[ies] a limited number of victims who may be authorised to participate individually by appearing directly before the Chamber."⁵² In other words, as with registered victims, the CLR is responsible for ensuring that these individuals fulfil the rule 85 criteria.

22. The applications of those individuals preliminarily identified by the Chamber are then transmitted to the parties, who are entitled to make observations.⁵³ On the basis of those observations, the Chamber "make[s] a final determination as to which victims shall be authorised to participate individually . . . and at which point in the proceedings."⁵⁴

C. Common Legal Representation

23. The common legal representation scheme articulated by the Chamber consists of both an appointed CLR and the OPCV acting on the CLR's behalf.⁵⁵ More specifically, the Chamber indicated that the CLR "will have primary responsibility for being the point of contact for the victims whom he/she represents, to formulate their views and concerns and to appear on their behalf at critical junctures of the trial" whereas the "OPCV's primary responsibility will be to act as the interface between the [CLR] and the Chamber in day-to-day proceedings."⁵⁶

III. The Ntaganda Pre-Trial System

24. The Pre-Trial Chamber in *Ntaganda* was the third to develop a new application system for victim participation. In a 26 April 2013 decision, the Chamber requested the Registry to present its observations on the "partly collective approach" adopted by the Pre-Trial Chamber in *Gbagbo*.⁵⁷ In its request, the Chamber specifically noted that the Registry is the organ with

“primary responsibility, pursuant to rule 16(1)(c) of the Rules and regulation 86(9) of the Regulations, to assist the victims in the course of the application process”, and that it was therefore “necessary to seek [its] feedback”.⁵⁸

25. The Registry’s response, filed on 6 May 2013, began by observing that

in proposing and implementing the approach . . . in Gbagbo the Registry expressly intended to contribute to a review of the victim application system currently under way . . . aimed at identifying ways . . . , whether within the existing legal framework or involving amendments to that framework, to improve efficiency and sustainability and effectiveness, especially in cases involving potentially large numbers of victims, and . . . to test an approach with a view to its possible refinement and adoption as a standard model for other situations and cases. The Gbagbo experience provided an invaluable opportunity to test a more collective management of an application process for victims to see whether such an approach could be more practical and efficient, and already the lessons learnt in Gbagbo have been used in designing a victim registration process for victims in Kenya.⁵⁹

The Registry further prefaced its observations by clarifying that

[t]he approach adopted in Gbagbo was in reality not a fully collective application system, and the Registry has been careful to describe it as a *partly* collective system. No notion of collective harm has been introduced, and indeed, although the alleged events are presented through a common narrative, the [Chamber] in Gbagbo underlined that this does not mean the harm loses its individual character. Indeed, each applicant is asked to describe, in the individual declaration, the individual harm suffered. Victims are still admitted to participate as individuals and there is no suggestion of collective participation – at least, only insofar as victims participate through a common legal representative, as occurs in most cases before the Court.⁶⁰

26. Reflecting further on the Gbagbo Pre-Trial System, the Registry observed that “grouping victims already at the application stage not only facilitates the application process itself, but can also facilitate the actual participation of victims subsequently”.⁶¹ Nevertheless, the Registry shared that “one lesson learnt from the experience . . . is that it will not always be feasible or advisable to bring together groups of victims physically for the purposes of an application process.”⁶² Accordingly, the Registry did not recommend “repeating the aspect of the Gbagbo approach that involved a division of the *formal* application into two elements, the group form and individual declarations.”⁶³ Rather, it recommended a more “flexible approach”, namely a “process that involves the collection of core information from each victim, while other information pertaining to a group can be collected and stored separately by the [Registry]”.⁶⁴ In this way, “a victim is not permanently linked to one group but could subsequently be considered separately . . . at another stage of proceedings or in another case.”⁶⁵

27. On the basis of these observations, the Registry proposed an approach whereby “each victim would only complete a short form of one or two pages with information that is essential for assessing the application as well as minimum contact details.”⁶⁶ The Registry noted that such a form would be “similar to the Individual Declaration used in Gbagbo . . . but with the addition of a description of the events (which in Gbagbo was collected through a group form),

so that form could then stand alone as the application, as it would include all the information required under the legal framework.”⁶⁷

28. The Registry specifically noted the potential efficiency gains of a shorter application form. In the Gbagbo Pre-Trial System, it explained, “collecting less information in a shorter application form had been expected to lead to less paperwork and therefore reduce the staff time needed to scan, enter data into the database and analyse, and less information to redact in the versions prepared for transmission to the parties.”⁶⁸ While some of the efficiency gains were blunted by “an unusual number of applicants provid[ing] numerous supplementary documents”, the Registry observed that “overall . . . the effect . . . was indeed to reduce the amount of information needing to be treated and correspondingly the amount of staff time required to deal with it.”⁶⁹

A. The Application Process

29. The Chamber, taking into consideration the Registry’s observations, devised a system maintaining an individual application process, but with a significantly pared down application form (“Simplified Form”).⁷⁰ The Simplified Form is “structured” to “allow each applicant to concisely bring forward the salient elements of the relevant events, particularly their spatial and temporal parameters, as well as (in broad terms) the nature of the alleged crime and, to the extent possible, the identity of the alleged perpetrator(s).”⁷¹ It contains only the information “strictly required by law” to determine whether an applicant qualifies as a victim under rule 85 of the Rules.⁷² Thus, applicants provide in the Simplified Form the following information:

- (i) the identity of the applicant;
- (ii) the date of the crime(s);
- (iii) the location of the crime(s);
- (iv) a description of the harm suffered as a result of the commission of the crime(s) allegedly committed by the suspect;
- (v) proof of identity . . . ; [and]
- (vi) a signature or thumb-print of the applicant on the document.⁷³

The Simplified Form does not permit applicants to apply for reparations, but allows them to indicate whether they intend to apply for reparations in the event of a conviction.⁷⁴

30. The Registry processes the Simplified Forms for completeness and conducts an initial assessment of whether each applicant meets the requirements of rule 85.⁷⁵ The Registry also organizes the Simplified Forms into groups. The criteria for grouping “may include, *inter alia*: (i) the location of the alleged crime(s); (ii) the time of the alleged crime(s); (iii) the nature of the alleged crime(s); (iv) the harm(s) suffered; (v) the gender of the victim(s); and (vi) other specific circumstances common to victims.”⁷⁶

31. After organizing the applications into groups, the Registry transmits them to the Chamber, together with a report.⁷⁷ The report includes, *inter alia*, information relating to the grouping of the applications, such as the criteria employed, the number of applications in each group, and whether conflicts of interest exist among different groups.⁷⁸ The report also includes two annexes, one which enumerates the groups of applicants together with the Registry’s assessment as to whether each applicant and group meet the requirements of rule 85, and one which contains copies of complete applications.

32. The Registry also transmits copies of the report, including the annexes, to the parties (redacted for the Defence, unredacted for the Prosecutor).⁷⁹ The Chamber instructed the Registry “to redact any identifying information . . . prior to . . . transmission to the Defence”.⁸⁰ However, the Chamber noted that “[i]n light of the information to be included in the Report” and its Annexes it expected “few redactions”; indeed, it observed that the Simplified Form should “prove significantly instrumental in streamlining the process of redactions . . . ultimately allowing for the transmission of such information to the parties in non-redacted form, to the extent possible.”⁸¹ On receipt of copies of the report and its annexes, the parties have the opportunity to make observations on the applications.⁸²

33. The Chamber “assess[es] the applicants individually but . . . take[s] a decision on each distinct group of applicants”.⁸³

B. Common Legal Representation

34. The Chamber considered that the “legal representation of applicants is not required” in the Ntaganda Pre-Trial System.⁸⁴ However, it noted that the legal representation of victims “who *might* be admitted as participants . . . will be subject to the wishes of the applicants, the potential conflicts of interests among groups of applicants, as well as the Chamber’s discretion depending on the circumstances of the case.”⁸⁵ As such, the Chamber found it “necessary” that the Registry begin organizing common legal representation at the outset of the proceedings. It accordingly instructed the Registry “to consult with applicants as to their preferences for legal representation and to assess whether or not they should be represented by a common legal representative(s), including by the OPCV.”⁸⁶

35. The Chamber subsequently endorsed the Registry’s recommendation to create, for the purposes of common legal representation, “two distinct victims groups, each represented by a legal team: a group consisting of [former] child soldiers and another consisting of victims of [the] attacks.”⁸⁷ The Chamber ordered each legal team to consist of counsel from OPCV “supported by one or more . . . assistant(s) . . . with the necessary legal, linguistic, historical and cultural background to communicate directly and closely with the victims on the ground”.⁸⁸

IV. The Ntaganda Trial System

36. On 9 June 2014, the Pre-Trial Chamber committed Bosco Ntaganda to a Trial Chamber for trial.⁸⁹ Upon assignment of the case for trial, the Trial Chamber issued an order scheduling a status conference in which it requested, *inter alia*, observations from the parties and participants on “the procedure for allowing victims to participate.”⁹⁰

37. The Registry responded by presenting “two potential admission systems” along “with their attendant resource implications for the Chamber’s consideration.”⁹¹ The first option was to continue implementing the Ntaganda Pre-Trial System.⁹² The Registry pinpointed, however, inefficiencies emerging from this system:

[T]he most time and resource consuming element . . . is the preparation of the individual paragraphs describing the Registry’s Rule 85 assessments of completeness and inclusion within the scope of the Case. Redactions associated with these reports and on the applications themselves are also extremely time and resource intensive for the Registry.

This process is followed by the Chamber conducting its own review of the applications and preparing decisions in light of the observations made by the Parties.⁹³

The Registry submitted that, given “the limited resources currently available”, the continued implementation of the Ntaganda Pre-Trial System would mean a timeline of “as long as one year” to process and transmit applications to the Chamber.⁹⁴

38. The Registry proposed a second “more sustainable” option.⁹⁵ In this option, the Chamber would establish “principles and criteria for admission at trial” but the Registry would assess individual applications on the basis of such principles and criteria.⁹⁶ The Registry would then “register” those applicants qualifying as victims and transmit their applications to the CLRs.⁹⁷ In addition, the Registry, together with the CLRs, would “prepare and [publicly] notify, every two months, a comprehensive report on the[ir] activities”.⁹⁸ The report would include, *inter alia*, detailed statistics on “registered” applicants, information on the general situation of victims, and “specific examples . . . where the Registry considers the instructions provided by the Chamber insufficient to make a determination on” an applicant’s status.⁹⁹

39. In a 6 February 2015 decision, the Chamber opted to deviate from the Ntaganda Pre-Trial System in favour of an alternative approach.¹⁰⁰ The Chamber explained that it had

fully considered the specific circumstances of this case, including: (i) the large number of victims expected to express interest in participating at trial; (ii) the 2 June 2015 trial commencement date; (iii) the situation of the victims and (iv) the fact that all participants submitted in favour of a greater degree of judicial oversight . . . than that required by the Kenya Trials Approach.¹⁰¹

In particular, the Chamber noted

the Registry’s estimate that one year would be required to process and submit the applications in accordance with the *Ntaganda* Pre-Trial Approach. Adopting the *Ntaganda* Pre-Trial Approach for all applications would likely mean that not all of them could be processed by the 2 June 2015 trial commencement date. Some victims entitled to participate in trial proceedings could therefore be prevented from doing so at the trial’s commencement.¹⁰²

The Chamber also acknowledged the Registry’s observation that “the redaction process necessary to provide all victim applications to the parties” in the Ntaganda Pre-Trial System “would be ‘time and resource intensive’”.¹⁰³

40. The alternative approach adopted by the Chamber draws its framework from the Registry’s proposed “second option”. Essentially, and as detailed below, this approach “designate[s] the Registry to assess victim applications, based on clear guidelines outlined by the Chamber, wh[ich] retains ultimate authority over the process.”¹⁰⁴ Furthermore, it “limit[s] the parties’ submissions to applications which cannot be clearly resolved by the Registry”.¹⁰⁵

41. The Chamber observed that this alternative approach was consistent with the legal framework. In particular, it noted that rule 89 “contains no express requirement for individual consideration of each application by each Chamber.”¹⁰⁶ Rather, rule 89(2) provides that “the Chamber ‘may’ reject an application if it considers that the applicant is not a victim or the criteria in Article 68(3) . . . are not otherwise fulfilled.”¹⁰⁷ Additionally, the Chamber highlighted that rule 89(4) “gives the Chamber discretion to ‘consider the applications in such

a manner as to ensure the effectiveness of proceedings.”¹⁰⁸ Finally, the Chamber observed that the Registry was well-placed to assess applications given that “past victim participation decisions have required [it] to . . . make detailed reports on the merits of the applications in order to inform the Chamber’s assessments.”¹⁰⁹

42. With respect to limiting the parties’ right to reply to victim applications, the Chamber noted that rule 89(1) subjects this right “to the provisions in the Statute, in particular article 68, paragraph 1”.¹¹⁰ The Chamber then proceeded to enumerate several provisions in the Statute animating its decision to limit this right:

- (i) the Court’s obligation under Article 68(1) . . . to protect the safety, physical and psychological well-being, dignity and privacy of victims; (ii) the right of the accused to not have measures adopted which are prejudicial to or inconsistent with his/her right to be tried with undue delay, as required by Articles 67(1)(c) and 68(1) and (3) of the Statute; and (iii) the Chamber’s general obligation under Article 64(2) . . . to ensure the fair and expeditious conduct of the proceedings.¹¹¹

A. The Application Process

43. Applicants continue to submit a Simplified Form to the Registry. The Registry reviews the applications for completeness and assesses them “on the basis of guidance provided by the Chamber”.¹¹² As part of its assessment, the Registry “separate[s] the applicants into three groups: (a) applicants who clearly qualify as victims (‘Group A’),¹¹³ (b) applicants who clearly do not qualify as victims (‘Group B’) and (c) applicants for whom the Registry could not make a clear determination for any reason (‘Group C’).”¹¹⁴ The Registry “maintain[s] a database of information” on those applicants qualifying as victims, which is accessible to the CLRs.¹¹⁵

44. The Registry transmits applications “to the Chamber on a rolling basis.”¹¹⁶ The Registry also prepares a report “which lists, without need for application-by-application reasoning or analysis”, the applications falling into each of the three groups.¹¹⁷ The Registry transmits this report to the Chamber, the parties and the CLRs. At the time it transmits this report, the Registry also transmits all applications falling into Group C, “with any necessary redactions,” to the parties.¹¹⁸

45. On receipt of the Group C applications, the parties are entitled to make observations. The Chamber assesses the Group C applications individually. As for the Group A and Group B applications, the Chamber will “ratify” the Registry’s assessment “[b]arring a clear and material error”.¹¹⁹

46. Every four months, the Registry “provide[s] a detailed report about the victims admitted to participate in the proceedings and the general situation of participating victims.”¹²⁰ This report is prepared in cooperation with the CLRs, who provide the Registry “with detailed information relating to their activities amongst the victims.”¹²¹

47. The Registry “must make a final transmission” of applications “falling under: (a) Group C to the Chamber and parties no later than 60 days prior to the trial commencement date and (b) Groups A and B to the Chamber no later than 15 days prior to the trial commencement date.”¹²²

B. Common Legal Representation

48. The Trial Chamber instructed the Registry “(i) to consult with the victims who participated in this case during the confirmation stage on the . . . continued representation” by the CLRs and “(ii) report back to the Chamber as to the result of this consultation.”¹²³ The Trial Chamber opted, following consultations with the victims, to maintain the common legal representation scheme implemented at the pre-trial stage.¹²⁴

¹ See *The Prosecutor v. Laurent Gbagbo*, PTC III, Decision on issues related to the Victims' application process, 6 Feb. 2012, ICC-02/11-01/11-33, para. 1.

² *Id.* at para. 6.

³ *Gbagbo*, Registry, Organization of the Participation of Victims, 6 Feb. 2012, ICC-02/11-01/11-29-Red, para. 21.

⁴ *Id.* at para. 25.

⁵ *Id.* at para. 23.

⁶ *Id.* at para. 39 (citing, *inter alia*, *The Prosecutor v. William Samoei Ruto, Henry Kirpono Kosgey and Joshua Arap Sang* ("Ruto & Sang"), Registry, Proposal for the common legal representation of victims, 1 Aug. 2011, ICC-01/09-01/11-243). As a way of streamlining the victim participation process more generally, the Registry further proposed "the production of an initial mapping report, which would identify the main communities of victims affected by the crimes likely to be the subject of the Court proceedings" as well as the development of mechanisms, including "a secure core network of intermediaries", that would "enable it to rapidly identify, contact and assist relevant victims." *Id.* at paras. 34-38.

⁷ *Gbagbo*, PTC I, Second decision on issues related to the victims' application process, 5 Apr. 2012, ICC-02/11-01/11-86; *Gbagbo*, PTC III, ICC-02/11-01/11-33, *supra* note 1, at paras. 6-7. The Chamber reiterated the observation of the Registry that "under the existing legal framework collective victims' applications cannot be imposed." *Gbagbo*, PTC III, ICC-02/11-01/11-33, *supra* note 1, at para. 8.

⁸ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at para. 16.

⁹ *Id.* at para. 37. This assessment was confirmed in internal discussions with the Registry.

¹⁰ *Id.* at paras. 38-39 (citations and quotation marks omitted).

¹¹ *Id.* at para. 37. The Chamber instructed that

unredacted copies of complete victims' applications for participation should be transmitted to the Prosecutor, given the duties of the Prosecutor with respect to victim protection, pursuant to Articles 54(1)(b) and 68(1) of the Statute, and the fact that applications for participation in proceedings may contain exculpatory information that may be relevant to his investigative duties under Article 54(1)(a) of the Statute.

Id. at paras. 41-42.

¹² *Gbagbo*, PTC III, ICC-02/11-01/11-33, *supra* note 1, at para. 8; *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at para. 16. In practice, it is the Registry that specifically encourages victims to apply collectively. *Gbagbo*, PTC III, ICC-02/11-01/11-33, *supra* note 1, at para. 8.

¹³ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at paras. 16-17, 21; *see also* Annex E. The Registry submitted to the Chamber that its "direct assistance . . . will be necessary in completing the collective application form in order to maximise the envisaged efficiency gains of the new system and to ensure that a detailed account of the alleged crime and harm is provided, reflecting in an inclusive manner the perspective of each member of the group." The Chamber agreed that the Registry's involvement in this manner "is essential for the efficient implementation of the collective application process". *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at paras. 24, 27.

¹⁴ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at para. 31.

¹⁵ *Id.* at paras. 33-34.

¹⁶ *Id.* at para. 34.

¹⁷ *Id.* at para. 17; *see also* Annex F.

¹⁸ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at para. 30.

¹⁹ The Pre-Trial Chamber contemplated that "[s]hould a victim be called to testify at the confirmation of charges hearing, further information could be provided, if needed, in order to allow proper questioning of the victims". *Id.* at para. 20.

²⁰ This assessment was confirmed through internal consultations with the Registry.

²¹ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at para. 38.

²² *Id.*

²³ *Id.* at paras. 37, 39-42.

²⁴ *Id.* at para. 20; *see generally Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138.

²⁵ *Gbagbo*, PTC I, ICC-02/11-01/11-86, *supra* note 7, at para. 35.

²⁶ *Id.* at para. 44. The early organization of common legal representation was directed towards "ensuring the meaningful participation by victims at the confirmation of charges hearing." *Id.* The Chamber did not explicitly address whether applicants were entitled to legal representation during the victim application process.

²⁷ *Id.*

²⁸ *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 40; *see also Gbagbo*, Registry, Proposal for the common legal representation of victims, 16 May 2012, ICC-02/11-01/11-120. The Chamber also endorsed "the criteria identified by the Registry for the selection of candidates", which went "beyond the minimum requirements for counsel set out in rule 22 of the Rules and regulation 67 of the Regulations of the Court". *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 41.

²⁹ *Gbagbo*, PTC I, ICC-02/11-01/11-138, *supra* note 24, at para. 42. The Chamber noted that "[t]his system may be revisited at a later stage in light of the views expressed by the victims." *Id.* at para. 45. In a subsequent decision, the Chamber noted that "there are no indications that the current scheme of legal representation of victims in the case should be modified". *Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 Feb. 2013, ICC-02/11-01/11-384-Corr, para. 46.

³⁰ *Ruto & Sang*, TC V, Decision on victims' representation and participation, 3 Oct. 2012, ICC-01/09-01/11-460; *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*, Decision on victims' representation and participation, 3 Oct. 2012, ICC-01/09-02/11-498. The two decisions are substantively similar; accordingly, the analysis of the Kenya Trial System will henceforth cite only to the *Ruto & Sang* decision.

³¹ *Ruto & Sang*, TC V, ICC-01/09-02/11-460, *supra* note 30, at para. 15.

³² *Id.* at para. 24.

³³ *Id.*

³⁴ *Id.* at para. 25.

³⁵ *Id.* at paras. 41-45.

³⁶ *Id.* at para. 36.

³⁷ *Id.* at para. 37 (internal citations omitted).

³⁸ *Id.* at para. 25.

³⁹ *Id.*

⁴⁰ *Id.* at para. 49; Annex G.

⁴¹ *Id.*

⁴² *Id.* at para. 51.

⁴³ *Id.* at para. 52.

⁴⁴ *Id.* at para. 53.

⁴⁵ *Id.*

⁴⁶ *Id.* at para. 55.

⁴⁷ *Id.*

⁴⁸ *See, e.g., Ruto & Sing*, Registry, First periodic report on the general situation of victims in Kenya, 23 Jan. 2013, ICC-01/09-01/11-566.

⁴⁹ *Ruto & Sang*, TC V, ICC-01/09-02/11-460, *supra* note 30, at para. 56.

⁵⁰ *Id.* at para. 56. The detailed summary submitted by the CLR closely resembles the separate written application typically made by victims to demonstrate that their "personal interests are affected" by a particular stage of the proceedings *after* they have demonstrated that they qualify as victims. Thus,

the route set forth by the Chamber for those wishing to appear before the Chamber effectively collapses the two-step process – determining whether (1) an applicant qualifies as a victim and (2) his or her “personal interests are affected” by the proceedings – undertaken in the Standard System. See p. 10 of the report (“A Note on Applicants Who Qualify as Victims”).

⁵¹ *Ruto & Sang*, TC V, ICC-01/09-02/11-460, *supra* note 30, at para. 57.

⁵² *Id.* at paras. 48, 56, 59-61. The Chamber may also “[w]here necessary . . . ask the [CLR] to make a selection of a specified number of applications, from which the Chamber will select those eligible for personal appearance.” *Id.* at para. 57.

⁵³ *Id.* at para. 58. The Chamber held, in addition, that “[t]he victims[’] identities will be disclosed to the parties at this stage” but noted that it would provide further details on “the regime governing redactions, if any” at a later stage. *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at para. 41.

⁵⁶ *Id.* at paras. 42-43.

⁵⁷ *The Prosecutor v. Bosco Ntaganda*, (“*Ntaganda*”), PTC II, Decision Requesting the Victims Participation and Reparations Section to Submit Observations, 26 Apr. 2013, ICC-01/04-02/06-54, paras. 3-5. The Chamber did not explain why it chose to focus on the Gbagbo Pre-Trial System as opposed to the Kenya Trial System.

⁵⁸ *Id.* at para. 5.

⁵⁹ *Ntaganda*, PTC II, Registry Observations in compliance with the Decision ICC-01/04-02/06-54-Conf, 6 May 2013, ICC-01/04-02/06-57, para. 5 (internal citations omitted).

⁶⁰ *Id.* at para. 6 (internal citations omitted) (emphasis in original).

⁶¹ *Id.* at para. 7.

⁶² *Id.* at para. 8. The Registry noted in particular that

[i]n some cases the security context may not be conducive for such meetings, in others not all victims feel comfortable speaking in front of groups, whether due to the nature of the harm suffered (such as victims of sexual violence) or generally due to tensions within a community, fear of stigmatization, or other reason.

Id.

⁶³ *Id.* at para. 9 (emphasis in original).

⁶⁴ *Id.*

⁶⁵ *Id.* at para. 10.

⁶⁶ *Id.* at para. 9.

⁶⁷ *Id.*

⁶⁸ *Id.* at para. 16.

⁶⁹ *Id.*

⁷⁰ *Ntaganda*, PTC II, Decision Establishing Principles on the Victims’ Application Process, 28 May 2013, ICC-01/04-02/06-67, para. 21; Annex H. The Chamber observed that “as the unit chiefly responsible for the collection of the applications for victims’ participation and with a view to making the process as efficient as feasible, the [Registry] should be directly involved in assisting the applicants to fill in the Simplified Forms.” At the same time, recognizing that “it may not always be feasible for the [Registry] to assist applicants directly”, the Chamber noted that the Registry “may benefit from the assistance of suitable individuals, based in the field, who will serve as intermediaries between the affected communities and the Court.” *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 70, at paras. 26-28.

⁷¹ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 70, at para. 22.

⁷² *Id.* at para. 21.

⁷³ *Id.* at para. 30. Applicants are not solely confined to presenting information in the Simplified Form and may submit other information, such as their contact details, preferences as to legal representation and security concerns, to the Registry. The Registry is responsible for storing this information in an electronic log. The Registry does not transmit this information to the Chamber but makes it available so that the Chamber may verify the applicants' identities and fulfil other responsibilities, such as taking protective measures. *Id.* at paras. 24, 38.

⁷⁴ Annex H.

⁷⁵ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 70, at paras. 33, 37.

⁷⁶ *Id.* at para. 35.

⁷⁷ *Id.* at paras. 33, 37.

⁷⁸ *Id.* at para. 37.

⁷⁹ *Id.* at para. 41.

⁸⁰ *Id.* at para. 43.

⁸¹ *Id.* at paras. 22, 42.

⁸² *Id.* at para. 41.

⁸³ *Id.* at para. 34. Two other Chambers have adopted major elements of the Ntaganda Pre-Trial System in implementing victim application systems for the respective proceedings before them. The Trial Chamber in *Gbagbo*, rather than continue implementing the Gbagbo Pre-Trial System, opted for an individual application process using the Simplified Form. *Gbagbo*, TC I, Decision on victim participation, 6 Mar. 2015, ICC-02/11-01/11-800, paras. 48-53; *see also* *Gbagbo*, Registry, Registry's Observations on the "Order scheduling a status conference and setting a provisional agenda" (ICC-02/11-01/11-692), 27 Oct. 2014, ICC-02/11-01/11-705, paras. 11-12 (advising the Chamber not to repeat the Gbagbo Pre-Trial System "approach at the trial stage . . . for the reasons outlined in its observations before Pre-Trial Chamber II in . . . *Ntaganda*" and recommending the Ntaganda Pre-Trial System as an alternative approach). The Trial Chamber's approach deviates slightly from the Ntaganda Pre-Trial System in requiring that parties receive only copies of the Simplified Forms (and not the report), but permits them the opportunity to make observations on the applications. As in the Ntaganda Pre-Trial System, the Chamber assesses each applicant individually. *Gbagbo*, ICC-02/11-01/11-800, *supra* note 83, at paras. 50-53. The Pre-Trial Chamber in *The Prosecutor v. Dominic Ongwen* also opted for an individual application system using the Simplified Form. *The Prosecutor v. Dominic Ongwen*, PTC II, Decision Establishing Principles on the Victims' Application Process, 4 Mar. 2015, ICC-02/04-01/15-205, paras. 14-28. The Pre-Trial Chamber's approach diverges from the Ntaganda Pre-Trial System in several respects. The Pre-Trial Chamber instructed that the report include three annexes: (1) Annex A containing applications of those "who, in the view of the VPRS, qualify as victims"; (2) Annex B containing applications for "which the VPRS could not make [a] determination"; and (3) Annex C containing applications of those "who, in the view of the VPRS, do not qualify as victims". *Id.* at para. 30. The Pre-Trial Chamber further instructed that the parties receive copies of the report and Annexes A and B, following which they may make observations on the enclosed applications. As for Annex C, the Pre-Trial Chamber instructed that if, upon review, it should determine that such applications fulfil the rule 85 criteria, "it will request the VPRS to transmit" them to the parties, who will then be given the opportunity to make observations. As in the Ntaganda Pre-Trial System, the Chamber assesses each applicant individually. *Id.* at paras. 19, 31-32.

⁸⁴ *Ntaganda*, PTC II, ICC-01/04-02/06-67, *supra* note 70, at para. 45.

⁸⁵ *Id.* at para. 46 (emphasis in original).

⁸⁶ *Id.*

⁸⁷ *Ntaganda*, PTC II, Decision Concerning the Organisation of Common Legal Representation of Victims, 2 Dec. 2013, ICC-01/04-02/06-160, paras. 10, 23.

⁸⁸ *Id.* at paras. 25-26.

⁸⁹ *Ntaganda*, PTC II, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, 9 June 2014, ICC-01/04-02/06-309.

⁹⁰ *Ntaganda*, TC VI, Order Scheduling a Status Conference and Setting a Provisional Agenda, 21 July 2014, ICC-01/04-02/06-339, para. 5, p. 6.

⁹¹ *Ntaganda*, Registry, Registry submission to “Order Scheduling a Status Conference and Setting a Provisional Agenda”, 14 Aug. 2014, ICC-01/04-02/06-350, para. 12.

⁹² *Id.* at paras. 13-15.

⁹³ *Id.* at para. 16.

⁹⁴ *Id.* at para. 14. In addition to resource constraints, the Registry also noted as relevant factors “the considerable number of applications received” and “the precarious security situation in the areas where many of the victims seeking to participate . . . reside”. *Id.* at para. 15.

⁹⁵ *Id.* The Office of the Prosecutor (“OTP”) and OPCV, on the other hand, articulated their support for continued implementation of the Ntaganda Pre-Trial System in their respective submissions to the Chamber. *Ntaganda*, Office of the Prosecutor, Prosecution’s Submissions on the Provisional Agenda for the 20 August 2014 Status Conference, 14 Aug. 2014, ICC-01/04-02/06-352; *Ntaganda*, Office of Public Counsel for Victims, Joint submissions in accordance with the “Order Scheduling a Status Conference and Setting a Provisional Agenda” issued on 21 July 2014, 14 Aug. 2014, ICC-01/04-02/06-351. The Defence did not address the issue of victim participation in its submission to the Chamber in response to its 21 July 2014 Order. However, during the first status conference, the Defence also expressed support for maintaining the Ntaganda Pre-Trial System. *Ntaganda*, TC VI, Transcript of Status Conference, 11 Sept. 2014, ICC-01/04-02/06-T-ENG, 50:23-51:2.

⁹⁶ *Ntaganda*, Registry, ICC-01/04-02/06-350, *supra* note 91, at para. 15.

⁹⁷ *Id.* at para. 16. The Registry observed that this aspect of the second option bore some resemblance to the Kenya Trial System, where victims seeking to participate without appearing before the Chamber (i.e., through the CLR) could “register with the Court” without “having to go through the procedure established by Rule 89.” *Id.* at para. 20. Unlike the Kenya Trial System, however, the second option entails the Chamber delegating to the Registry – rather than to the CLR – “the responsibility [of] verify[ing] whether victims fulfil the Rule 85 criteria before registering them.” *Id.* at para. 21. The Registry emphasized that because it was “a neutral body”, such delegation “would provide a greater degree of oversight to the Court, facilitate the work of the legal representatives in the field and ensure that the criteria established by the Chamber is systematically applied”. *Id.*

⁹⁸ *Id.* at para. 18.

⁹⁹ *Id.* The Registry further proposed organizing applicants qualifying as victims into groups, for example, “by incident” or “in the case of child soldiers, by harm suffered.” *Id.* at para. 18 & n. 15.

¹⁰⁰ *Ntaganda*, TC VI, Decision on victims’ participation in trial proceedings, 6 Feb. 2015, ICC-01/04-02/06-449.

¹⁰¹ *Id.* at para. 23.

¹⁰² *Id.* at para. 27.

¹⁰³ *Id.* at para. 28.

¹⁰⁴ *Id.* at para. 32.

¹⁰⁵ *Id.* at para. 30.

¹⁰⁶ *Id.* at para. 31.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* at para. 32.

¹¹⁰ *Id.* at para. 29.

¹¹¹ *Id.*

¹¹² *Id.* at para. 24. For the Chamber’s guidance on “[t]he criteria to be fulfilled by the applicants in order to be authorized to participate as victims in trial proceedings”, see *id.* at paras. 41-51.

¹¹³ The Chamber instructed that “the Registry should list the victims accepted during the confirmation stage under Group A unless it considers that one or more victims may no longer qualify due to the parameters of the charges confirmed in the Confirmation Decision.” *Id.* at para. 24.

¹¹⁴ The separation of applicants into three groups is similarly undertaken in the victim application system adopted by the Pre-Trial Chamber in *Ongwen*. See *supra* note 84. However, the two Chambers differ in their approach to the assessment of victim applications.

¹¹⁵ *Ntaganda*, TC VI, ICC-01/04-02/06-449, *supra* note 100, at para. 24.

¹¹⁶ *Id.*

¹¹⁷ *Id.* Group B applications are to be “further sub-divided” into “(i) applicants who failed to demonstrate their identity or kinship; (ii) applicants who suffered alleged harm outside the temporal scope of the charges; (iii) applicants who suffered harm outside the geographic scope of the charges and (iv) applicants who were rejected for any other reason.” *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.* The Registry must also file corresponding reports by these deadlines.

¹²³ *Id.* at para. 54.

¹²⁴ *Ntaganda*, TC VI, Second decision on victims’ participation in trial proceedings, 16 June 2015, ICC-01/04-02/06-650, paras. 28-32.

Annex B

A COMPARISON CHART OF VICTIM APPLICATION SYSTEMS

	Standard System	Gbagbo Pre-Trial System	Kenya Trial System		Ntaganda Pre-Trial System	Ntaganda Trial System
			<i>Registration</i>	<i>Individual Applications</i>		
Form of Application	Standard Form (Annex [])	<p>Applicants may</p> <p>(1) individually submit a Standard Form (Annex []) but are encouraged to</p> <p>(2) join with others whose experiences share common elements and to submit:</p> <p style="padding-left: 40px;">(a) Group Form (Annex [])</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">(b) Individual Declarations (Annex []), which link to the Group Form</p>	Applicants who wish to participate without appearing before the Chamber may register with the Court via a Registration Form (Annex []).	Applicants who wish to appear before the Chamber submit a Standard Form (Annex []).	Simplified Form (Annex [])	Simplified Form (Annex [])

	Standard System	Gbagbo Pre-Trial System	Kenya Trial System		Ntaganda Pre-Trial System	Ntaganda Trial System
			<i>Registration</i>	<i>Individual Applications</i>		
Processing of Application	The Registry reviews the applications for completeness.	The Registry reviews the applications for completeness.		The Registry reviews the applications for completeness.	The Registry reviews the applications for completeness.	The Registry reviews the applications for completeness.
	The Registry conducts an initial assessment of whether applicants meet the rule 85 criteria, if instructed to do so by the Chamber.	The Registry conducts an initial assessment of whether applicants meet the rule 85 criteria.			The Registry conducts an initial assessment of whether applicants meet the rule 85 criteria.	<p>The Registry conducts an assessment of whether applicants meet the rule 85 criteria on the basis of guidance from the Chamber, separating applicants into 3 groups:</p> <p>(1) Group A: applicants who clearly qualify as victims</p> <p>(2) Group B: applicants who clearly do not qualify as victims</p> <p>(3) Group C: applicants for whom the Registry could not make a clear determination.</p>
			The Registry enters the information provided by applicants into an electronic database. The Registry administers this database and makes it accessible to the Common Legal Representative ("CLR").		The Registry organizes the applications into groups using such criteria as the location, time, or nature of the alleged crime(s); harm suffered; victim gender; or other circumstances common to victims.	The Registry enters the information provided by applicants in Group A into an electronic database. The Registry administers this database and makes it accessible to the CLR.

	Standard System	Gbagbo Pre-Trial System	Kenya Trial System		Ntaganda Pre-Trial System	Ntaganda Trial System
			<i>Registration</i>	<i>Individual Applications</i>		
Transmission to Chambers	The Registry transmits, together with a report, applications to the Chamber.	The Registry transmits, together with a report, applications to the Chamber.	The Registry periodically transmits to the Chamber a report, which is prepared in cooperation with the CLR.	The Registry transmits applications to the Chamber. In addition, the CLR submits a request, explaining why these applicants are best-placed to reflect the interests of the victims and providing a detailed summary of what each applicant will address.	The Registry transmits a report to the Chamber.	The Registry transmits, together with a report, applications to the Chamber.
	The report presents the information contained in each application and the Registry's initial rule 85 assessment (if instructed to conduct such assessment by the Chamber).	The report presents the information contained in each application and the Registry's initial rule 85 assessment.	The report is on the general situation of victims, including statistics about the victim population. The report also includes information relating to the CLR's activities amongst the victims.		The report presents information on the grouping of applications, and two annexes: (1) a list of the groups of applicants together with the Registry's initial rule 85 assessment and (2) copies of complete Simplified Forms.	The report presents the applications by groups A, B, and C.

	Standard System	Gbagbo Pre-Trial System	Kenya Trial System		Ntaganda Pre-Trial System	Ntaganda Trial System
			<i>Registration</i>	<i>Individual Applications</i>		
Transmission to Parties	The Registry transmits redacted copies of the applications to the parties for their observations.	<p>The Registry transmits copies of the applications to the parties for their observations:</p> <ul style="list-style-type: none"> - the Defence receives redacted copies - the Prosecutor receives unredacted copies. 	The Registry's report is filed publicly and is therefore available in unredacted form to the parties.	Following the Chambers' identification of a limited number of victims who may participate individually (<i>see below</i>), the applications of such victims are transmitted to the parties for their observations. The identities of these victims are disclosed to the parties at this stage.	<p>The Registry transmits copies of the report, including the annexes, to the parties for their observations:</p> <ul style="list-style-type: none"> - the Defence receives redacted copies - the Prosecutor receives unredacted copies. 	The Registry transmits copies of the report and redacted copies of the applications falling into Group C to the parties.
Assessment of Application	The Chamber determines whether each applicant fulfils the rule 85 criteria.	The Chamber determines whether each applicant fulfils the rule 85 criteria, regardless of whether the application was submitted individually (via the Standard Form) or collectively (via the Group Form and Individual Declaration).	The CLR is responsible for ensuring that applicants fulfil the rule 85 criteria. Neither the Chamber nor the parties perform an individualized assessment of these applicants.	On the basis of the applications and the CLR's submission, the Chamber preliminarily identifies victims who may be authorised to participate individually. (The CLR is responsible for ensuring that applicants fulfil the rule 85 criteria.) The applications of these victims are transmitted to the parties for their observations (<i>see above</i>). After considering these observations, the Chamber determines which victims shall be authorised to participate in the proceedings.	The Chamber determines whether each applicant fulfils the rule 85 criteria.	<p>The Chamber determines whether each Group C applicant fulfils the rule 85 criteria.</p> <p>The Chamber ratifies the Registry's assessment of whether Group A and B applicants fulfil the rule 85 criteria barring a clear and material error.</p>

	Standard System	Gbagbo Pre-Trial System	Kenya Trial System		Ntaganda Pre-Trial System	Ntaganda Trial System
			<i>Registration</i>	<i>Individual Applications</i>		
Legal Representation	<p>In some proceedings, Chambers have determined that applicants are not entitled to legal representation during the application process; in others, they have appointed the Office of Public Counsel for Victims (“OPCV”) to represent applicants.</p> <p>In some proceedings, Chambers have organized common legal representation at the outset of proceedings so as to overlap with the application process.</p>	<p>Common legal representation is organized as soon as possible by consulting with applicants as to their preferences. Victims are represented by a legal team composed of counsel from OPCV, supported by a team member in the field.</p>	<p>Common legal representation is organized at the outset and plays a critical role in the application process. Victims are represented by a legal team composed of a CLR assisted by the OPCV.</p>		<p>Applicants are not entitled to legal representation during the application process. But common legal representation is organized as soon as possible by consulting with applicants as to their preferences. Victims are divided into two groups – (1) victims of the attacks and (2) former child soldiers – which are represented by separate legal teams. Each legal team is composed of counsel from OPCV, supported by an assistant who communicates directly with victims on the ground.</p>	<p>[The Chamber instructed the Registry to consult with victims who participated at the pre-trial stage as to whether the common legal representation scheme implemented at that stage should be maintained at the trial stage. The Registry filed its report on victim consultations on 16 March 2015 and the Chamber has yet to issue its decision on the organization of common legal representation.]</p>

Annex C



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Application Form for Individuals

Request for Participation in Proceedings and Reparations at the ICC For Individual Victims

PART A

PERSONAL INFORMATION

1. Has the victim already submitted an application for participation or for reparations to the ICC? ☐ Yes ☐ No

2. If yes and the victim has a registration number, please indicate it here:

/ /

3. Name(s) of the victim:

Please give all names, as completely as possible

Part A. If any of the information provided here is different from the information on your identity documents, please explain why next to your answer.

4. Sex: ☐ Female ☐ Male

5. Date of birth:

and / or Age
(day) (month) (year)

5. Where the victim's date of birth and age are unknown, please give approximate date or age or provide any information that will enable the age to be identified.

6. Place of birth:

(village/town)

(country)

7. Number of dependants:

7. Indicate the number of people such as children, orphans or other family members who are dependant on the victim for financial or other support.

8. Tribe/ethnic group (optional):

9. Occupation (specify any work, duties):

9. Please indicate what work the victim does, if any, or whether the victim is a student or unemployed.

10. What language(s) does the victim speak?

11. What proof of identity is the victim providing?

Please specify:

12. Where does the victim currently live?

Village / City / Town:

County / District / Province:

Country:

13. Is the victim applying on his/her own behalf?

☐ Yes ☐ No

If **yes**, go to question 22.

14. If no, what is the name of the person acting on behalf of the victim?

Please give all names, as completely as possible

15. Why is this person acting on behalf of the victim?

Please tick only one box

a. The victim is a child under 18 years of age ☐

b. The victim is unable to act for him or herself because of disability ☐

c. The victim is an adult and gives his or her consent ☐

d. Any other reason? *Please specify as completely as possible* ☐

16. What is the relationship between the victim and the person acting on behalf of the victim?

Proof of this relationship must be attached

11. It is a requirement that the victim provide proof of identity. This can include, for example, national identity card, birth certificate, voting card, passport, driver's licence, student or employee card, letter from a local authority, camp registration card, card from a humanitarian agency, tax document or other document identifying the victim.

13. Usually a victim will apply for him/herself. In some cases this is not possible, for example because the victim is a child or is disabled, deceased or disappeared. In such cases, another person may be permitted to act on behalf of the victim. The victim should consent to have another person act on his/her behalf if the victim is able to. If somebody is acting on behalf of the victim, then answer 'no' to question 13 and complete questions 14 to 21.

16. Where answer a, b or d has been ticked in question 15, proof must be provided of the relationship between the victim and the person acting on behalf of the victim. See note 11 for examples of documents that might prove the relationship. If c is ticked, the victim must give his/her consent by signing at the end of this form.

17. Sex of the person acting on behalf of the victim:

☐ Female ☐ Male

18. Date of birth of the person acting on behalf of the victim:

and/or Age
(day) (month) (year)

19. What language(s) does the person acting on behalf of the victim speak?

20. What proof of identity is the person acting on behalf of the victim providing?

Please specify:

20. See note to question 11.

21. Did the person acting on behalf of the victim also suffer harm as a result of the crimes?

☐ Yes ☐ No

If yes, the person acting on behalf may complete his or her own standard application form.

22. How can the victim or the person acting on behalf of the victim be contacted?

Please fill in as much information as possible

22. This could be the victim's own address or the address of an organisation, a family member or other individual, if the victim prefers to be contacted through someone else.

Contact person / organisation: _____

Street: _____ Number/Plot: _____

P.O. Box: _____ Sector/Cell/Zone: _____

Village/City/Town/Camp: _____

Sub-county/Parish: _____

County/District/Province: _____

Postal Code: _____ Country: _____

Email: _____ Telephone Number(s): _____

23. Is somebody assisting the victim to fill in this form?

☐ Yes ☐ No

24. If yes, what is that person's name and organisation (if any)?

_____ (name) (organisation)

25. Is an interpreter assisting with the filling in of this form? ☐ Yes ☐ No

PART B

INFORMATION ABOUT THE ALLEGED CRIME(S)

26. What happened to the victim? Describe the event(s) in as much detail as possible.

If more space is needed, please attach answers to this question on a separate sheet of paper

[illegible]

27. When did the event(s) occur?

If possible, please specify day(s), month(s) and year(s), or where the exact dates are not known please provide any information that will enable us to identify the dates

28. Where did the event(s) take place?

If necessary, attach a drawing or a map of the location

28. Please be as specific as possible, and also, if possible, please refer to the district/province or the nearest town/city.

29. Who does the victim believe is responsible for the event(s)? If possible, explain why the victim believes this.

PART C

INFORMATION ABOUT THE INJURY, LOSS OR HARM SUFFERED

30. What effect did the events have on the life of the victim and others around him/her?

Describe physical or mental injury, emotional suffering, harm to reputation, economic loss and / or damage to property or any other kind of harm

30. If the victim has documents demonstrating the harm he/she suffered, copies of these can be attached. This includes, for example, medical records or proof of economic loss or damage to property.

PART D

PARTICIPATION IN THE PROCEEDINGS

31. Does the victim want to present his/her views and concerns in ICC proceedings?

☐ Yes ☐ No

32. If yes, why does the victim want to participate in the proceedings?

31. Usually a victim presents his/her views and concerns through a lawyer who represents the victim in The Hague. In a small number of cases there may be an opportunity for a victim to be involved in person, but this is not a requirement.

PART E

REPARATIONS

33. Would the victim like to apply for reparations?

i.e does the victim want something to be done for what he / she suffered?

☐ Yes ☐ No

34. If yes, what would the victim want?

33/34. What is the victim expecting if the accused person is found guilty? Reparations can be anything which can help the victim to repair the harm suffered. This can include compensation, various forms of assistance, receiving back lost land or property, and / or symbolic or moral measures such as apologies and monuments. Please list any measures which the victim would like.

35. If reparations are ordered, who does the victim want the benefit to go to?

Tick more than one box, if necessary

- ☐ The victim
- ☐ The victim's family
- ☐ The victim's community (please specify the community) _____
- ☐ Other: _____

PART F

LEGAL REPRESENTATION

36. Does the victim have a lawyer? ☐ Yes ☐ No

37. If yes, please provide the lawyer's contact details:

Name: _____

Address: _____

Email: _____ Telephone number(s): _____

36. In order to represent victims before the ICC, a lawyer must be on the ICC list of counsel. Lawyers who are not on the list may apply for inclusion.

38. If the victim does not have a lawyer, would the victim like assistance from the ICC to find a lawyer? ☐ Yes ☐ No

39. Until the victim has a lawyer, would he/she like to be represented by the Court's lawyers for victims (the Office of Public Counsel for Victims)?

☐ Yes ☐ No

39. The OPCV is an independent office within the Court which looks after the legal interests of victims and which represents victims free of charge.

PART G

COMMUNICATION OF IDENTITY

Please note that the present application will be given to the defence (the accused person and his/her lawyers) and to the ICC Prosecutor. When this happens, the Judges may decide not to reveal the identity of the victim.

40. Would the victim have any reason to be concerned about his or her security, well-being, dignity or privacy or that of any other person if his or her identity were to be revealed to the defence or the ICC Prosecutor?

☐ Yes ☐ No

If yes, what are the reasons?

40. The victim may have concerns not only about physical danger but also about harm to his or her psychological well-being, reputation, privacy and/or dignity or those of his or her family. The identity of the victim will not be revealed to the public while the application is being considered. If the application is accepted, the victim may be asked again about disclosure of information.

PART H

SIGNATURES

SIGNATURE OF THE VICTIM

I hereby declare that:

- To the best of my knowledge and belief, the information I have given in the present Application Form is correct
- If I have named someone to act on my behalf in question 14 of this form, I hereby give my consent to that person to act on my behalf

Signature, thumbprint or other mark of the victim

Date: _____ Location: _____
(day) (month) (year)

SIGNATURE OF THE PERSON ACTING ON BEHALF OF THE VICTIM

I hereby declare that:

- To the best of my knowledge and belief, the information contained in this Application Form is correct

If the victim is acting on his/her own behalf and has answered "yes" to question 13 then there is no need to fill in this part.

Signature, thumbprint or other mark of the person acting on behalf of the victim

Date: _____ Location: _____
(day) (month) (year)

REMINDER :

THE FOLLOWING DOCUMENTS SHOULD BE ATTACHED TO THIS APPLICATION FORM

For the victim:

- ☐ Photocopy of proof of identity (REQUIRED)
- ☐ Photocopy of medical records or similar documents

For the person acting on behalf of the victim (if applicable)

- ☐ Photocopy of proof of identity (REQUIRED)
- ☐ Photocopy of proof of relationship to victim (REQUIRED unless the victim is an adult who has given consent)

NOTE:

This Application Form and the process of applying are free of charge.

The ICC does not charge any fee at any stage of the application process.

Annex D



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Application Form for Organisations

Request for Participation in Proceedings and Reparations at the ICC For Victims that are Organisations or Institutions

PART A

INFORMATION ABOUT THE ORGANISATION OR INSTITUTION

1. Has the organisation or institution already submitted an application for participation or for reparations to the ICC?

☐ Yes ☐ No

2. If yes and the organisation or institution has a registration number, please indicate it here:

/ /

3. Name(s) of the organisation or institution:

4. Current Address of the organisation or institution:

Village / City / Town: _____

County / District / Province: _____

Country: _____

5. Date and place of incorporation, establishment and/or registration, if applicable, of the organisation or institution:

Date of incorporation, establishment and/or registration:

Place of incorporation, establishment and/or registration:

6. What was the legal status of the organisation or institution on the date that the event(s) occurred?

Please provide proof of the incorporation, establishment and/or registration of the organisation or institution, if applicable, at the date the event(s) occurred (such as certificate of incorporation or registration).

- ☐ Non-governmental charitable or non-profit organisation (organisation established to provide voluntary services including religious, artistic, scientific, social or charitable services to the community or any part of it)
- ☐ Statutory body (such as a governmental organisation, public school, public hospital, etc)
- ☐ Corporation or company (such as educational company, media or communications company, private hospital or clinic, etc)
- ☐ Institution for the benefit of members of a community (such as a cooperative society, building society or micro-finance institution)
- ☐ Partnership
- ☐ Other - please specify: _____

7. Name(s) of the person submitting the application on behalf of the organisation or institution:

Please give all names, as completely as possible

8. Nationality of the person submitting the application:

9. How can the person submitting the application be contacted?

Please complete all that apply

Telephone Number(s): _____

Street: _____ Number/Plot: _____

P.O. Box: _____ Sector/Cell/Zone: _____

Village / City / Town / Camp: _____

Sub-county / Parish: _____

County / District / Province: _____

Postal Code: _____ Country: _____

Email: _____

10. Occupation and job title of the person submitting the application:

11. What proof of identity is the person submitting the application providing?

Please specify

11. It is a requirement that the person submitting the application provide proof of identity. This can include, for example, national identity card, birth certificate, voting card, passport, driver's licence, student or employee card, letter from a local authority, camp registration card, card from a humanitarian agency, tax document or other document identifying the victim.

12. In what capacity is the person acting for the organisation or institution?

Please provide proof of this capacity

- ☐ Authorised representative of the organisation or institution (such as company director, president)
- ☐ Legal representative
- ☐ Other - *please specify*: _____

13. What language(s) does the person submitting the application speak?

14. Is someone assisting the person submitting the application to fill in this form?

☐ Yes ☐ No

15. If yes, what is that person's name and organisation (if any)?

(name)

(organisation)

16. Is an interpreter assisting with the filling in of this form?

☐ Yes ☐ No

PART B

INFORMATION ABOUT THE ALLEGED CRIME(S)

17. What happened to the organisation or institution? Describe the event(s) in as much detail as possible.

If more space is needed, please attach answers to this question on a separate sheet of paper

18. When did these event(s) occur?

If possible, please specify day(s), month(s) and year(s) or where the exact dates are not known please provide any information that will enable us to identify the dates

19. Where did these event(s) take place?

If necessary, attach a drawing or a map of the location

19. Please be as specific as possible, and also, if possible, please refer to the district/province or the nearest town/city.

20. Who does the organisation or institution believe is responsible for the event(s)? If possible, explain why the organisation or institution believes this.

PART C

INFORMATION ABOUT THE INJURY, HARM OR LOSS SUFFERED

21. The property that was harmed was dedicated to:

Please tick one or more boxes as appropriate

- ☐ Religion
- ☐ Education
- ☐ Art
- ☐ Science
- ☐ Charitable purposes
- ☐ Historical monument
- ☐ Hospital
- ☐ Humanitarian purposes
- ☐ Other - *please specify:* _____

22. What direct harm to the property resulted from the event(s)?

If more space is needed, please attach answers to this question on a separate sheet of paper

22. This may include, for example, damage to land, buildings, movable property (eg materials or equipment), monuments or cemeteries, or environmental resources (eg water sources).

PART D

PARTICIPATION IN THE PROCEEDINGS

23. Does the organisation or institution want to present its views and concerns in ICC proceedings?

☐ Yes ☐ No

24. If yes, why does the organisation or institution want to participate in the proceedings?

23. Usually the organisation or institution would present its views and concerns through a lawyer who represents it in The Hague. In a small number of cases there may be an opportunity for victims (including organisations or institutions) to be involved in person, but this is not a requirement.

PART E

REPARATIONS

25. Would the organisation or institution like to apply for reparations?
i.e. Does the organisation or institution want something to be done for what it suffered?

☐ Yes ☐ No

26. If yes, what would the organisation or institution want?

25/26. What is the organisation or institution expecting if the accused person is found guilty? Reparations can be anything which can help the organisation or institution to repair the harm suffered. This can include compensation, various forms of assistance, receiving back lost land or property, and/or symbolic or moral measures such as apologies and monuments. Please list any measures which the organisation or institution would like.

27. Who does the organisation or institution want the benefit to go to?

Tick more than one box, if necessary

- ☐ The organisation or institution
☐ Other (*please specify*)

PART F

LEGAL REPRESENTATION

28. Does the organisation or institution have a lawyer?

☐ Yes ☐ No

29. If no, would the organisation or institution like assistance from the ICC to find a lawyer?

☐ Yes ☐ No

28. In order to represent victims before the ICC, a lawyer must be on the ICC list of counsel. Lawyers not on the list may apply for inclusion.

30. Until the organisation or institution has a lawyer, would it like to be represented by the Court's lawyers for victims (the Office of Public Counsel for Victims)?

☐ Yes ☐ No

30. The OPCV is an independent office within the Court which looks after the legal interests of victims and which represents victims free of charge.

31. If the organisation or institution has a lawyer, please provide the lawyer's contact details

Name: _____

Address: _____

Email: _____ Telephone number(s): _____

PART G

COMMUNICATION OF IDENTITY

Please note that the present application will be given to the defence (the accused person and his/her lawyers) and to the ICC Prosecutor. When this happens, the Judges may decide not to reveal the identity of the organisation or institution and of the person submitting the application.

32. Would the person submitting the application have any reason to be concerned about his or her security, well-being, dignity or privacy or that of any other person if his or her identity, or that of the organisation or institution, were to be revealed to the defence or the ICC Prosecutor?

☐ Yes ☐ No

If yes, what are the reasons? _____

32. The person submitting the application may have concerns not only about physical danger but also about harm to his or her psychological well-being, reputation, privacy and/or dignity or those of his or her family. The identity of the organisation/institution or the person submitting the application will not be revealed to the public while the application is being considered. If the application is accepted, the organisation or institution may be asked again about disclosure of information.

PART H

SIGNATURES

SIGNATURE OF THE PERSON SUBMITTING THIS APPLICATION

I hereby declare that:

- To the best of my knowledge and belief, the information I have given in the present Application Form is correct

Signature, thumbprint or other mark of the person submitting the application

Date: _____ Location: _____
(day) (month) (year)

REMINDER:

THE FOLLOWING DOCUMENTS SHOULD BE ATTACHED TO THIS APPLICATION FORM

For the organisation or institution:

- ☐ Photocopy of proof of the incorporation, establishment and/or registration of the organisation or institution (REQUIRED)

For the person submitting the application:

- ☐ Photocopy of proof of identity (REQUIRED)
☐ Photocopy of proof of capacity to represent the organisation or institution (REQUIRED)

NOTE:

This Application Form and the process of applying are free of charge.

The ICC does not charge any fee at any stage of the application process.

Annex E



Formulaire pour les groupes

Demande à compléter avec l'assistance d'un membre de la VPRS uniquement

Demande de participation aux procédures et demande de réparations devant la CPI pour les groupes de victimes

SECTION A – INFORMATIONS CONCERNANT LE GROUPE

1. Les membres du groupe ont-ils déjà soumis une demande de participation ou de réparations auprès de la CPI ?

☐ Oui ☐ Non

Q 1. Si oui, veuillez indiquer les numéros de références sur la page consacrée aux signatures (page 8)

2. Un interprète aide-t-il le groupe à remplir le présent formulaire ?

☐ Oui ☐ Non

3. Nom du groupe

Q 3. Ces informations sont réservées à un usage interne. Les groupes peuvent être nommés en fonction d'un lieu géographique, d'une composition thématique ou de tout autre caractéristique commune

4. Adresse actuelle ou localisation du groupe (si nécessaire)

Village/commune/ville

District/province/région

Pays

5. Nombre de personnes composant le groupe :

Nombre d'hommes (âgés de 18 ans ou plus)

Nombre de femmes (âgées de 18 ans ou plus)

Nombre d'enfants (âgés de moins de 18 ans)

6. Est-ce que le groupe comprend :

Des personnes âgées? ☐ Oui ☐ Non

Des personnes handicapées ? ☐ Oui ☐ Non

Des victimes de discrimination en raison de leur appartenance à l'un ou l'autre sexe ou de violences sexuelles ? ☐ Oui ☐ Non

7. Quelles sont les caractéristiques communes du groupe?

SECTION B – INFORMATION CONCERNANT LA PERSONNE À CONTACTER

8. Nom de la personne à contacter pour le groupe :

9. Nationalité de la personne à contacter soumettant la demande :

10. Tribu/groupe ethnique de la personne à contacter soumettant la demande (facultatif) :

11. Comment peut-on contacter la personne à contacter soumettant la demande ?

Veillez donner le plus d'informations possible.

Numéro(s) de téléphone

Rue

Numéro/parcelle

Boîte postale

Secteur/quartier/zone

Village/commune/ville/camp

Comté/paroisse

District/province/région

Code postal

Pays

Email

12. Profession de la personne à contacter soumettant la demande :

13. Quelle(s) preuve(s) d'identité la personne à contacter soumettant la demande fournit-elle ?

Veillez préciser

14. Quelle(s) langue(s) la personne à contacter soumettant la demande comprend-elle ?

Q 8. La personne à contacter n'est pas habilitée à parler au nom du groupe. Elle sera uniquement chargée d'organiser les réunions avec le groupe et de faciliter la communication entre le groupe et la Cour

Q 13. La personne qui soumet la demande doit fournir une preuve d'identité, comme par exemple : une carte d'identité nationale, un certificat de naissance, une carte d'électeur, un passeport, un permis de conduire, une carte d'étudiant ou d'employé, une lettre émanant d'une autorité locale, une carte d'enregistrement délivrée dans un camp, une carte délivrée par une organisation humanitaire, un document fiscal ou tout autre document établissant son identité

SECTION C – INFORMATIONS RELATIVES AU(X) CRIME(S) ALLÉGUÉ(S)

15. Qu'est-il arrivé aux membres du groupe ? Décrivez les événements de manière aussi détaillée que possible. *Si vous avez besoin de plus de place, veuillez présenter les réponses à cette question sur un feuillet supplémentaire*

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

16. Quand les événements se sont-ils déroulés ?
Si possible, veuillez préciser les jour(s), mois et année(s) ou, si vous ne connaissez pas les dates exactes, donnez toute information qui permettra de les établir

17. Où les événements se sont-ils déroulés ?
Si nécessaire, joignez un croquis ou une carte indiquant le lieu

Q 17. Veuillez être le plus précis possible et, si vous le pouvez, indiquez le district/la province ou la ville la plus proche

18. Selon les membres du groupe, qui est responsable des événements ?
Dans la mesure du possible, expliquez pourquoi les membres du groupe pensent cela

SECTION D – INFORMATIONS SUR LES DOMMAGES, PERTES OU PRÉJUDICES SUBIS

19. Quelles conséquences les événements ont-ils eu sur la vie des victimes et de leur entourage ?
Décrivez les blessures physiques ou psychologiques, les souffrances morales, les atteintes à la réputation, les pertes matérielles et/ou dommages aux biens ou tout autre type de préjudice subi

Q 19. Si la victime possède des documents prouvant le préjudice subi, elle peut en joindre des copies. Il peut s'agir par exemple de certificats médicaux ou de documents établissant les pertes matérielles ou les dommages aux biens

SECTION E – PARTICIPATION À LA PROCÉDURE

20. Les membres du groupe souhaitent-ils participer, c'est-à-dire présenter leurs vues et préoccupations dans le cadre de procédures devant la CPI ?

☐ Oui ☐ Non

21. Si **oui**, pourquoi les membres du groupe souhaitent-ils participer aux procédures ?

Q 21. Généralement, les membres du groupe exposent leurs vues et préoccupations par l'intermédiaire d'un avocat qui les représente à La Haye. Dans un petit nombre de cas, elles pourraient participer en personne, mais ça n'est pas une obligation

SECTION F – RÉPARATIONS

22. Les membres du groupe souhaitent-ils demander réparation ?
Les membres du groupe veulent-ils que quelque chose soit fait en raison de ce qu'ils ont subi ?

☐ Oui ☐ Non

23. Si **oui**, que voudraient les membres du groupe si l'accusé est jugé coupable ?

Q 22. Les réparations peuvent être tout ce qui peut aider la victime à réparer le préjudice subi. Il peut s'agir d'une indemnisation, de diverses formes d'assistance, de la restitution des terres ou biens volés et/ou de mesures symboliques ou morales telles que la présentation d'excuses et l'édification de monuments. Veuillez énumérer toutes mesures que les membres du groupe souhaiteraient que la Cour prenne en considération

24. À qui les membres du groupe voudraient que les réparations soient accordées ?

Cochez plusieurs cases, si nécessaire

- ☐ Les membres du groupe
☐ Les familles des membres du groupe
☐ Autres – (veuillez préciser)

SECTION G – REPRÉSENTATION LÉGALE

25. Les membres du groupe ont-ils un avocat ?

☐ Oui ☐ Non

26. Si **non**, les membres du groupe souhaiteraient-ils que la CPI les aide à en trouver un ?

☐ Oui ☐ Non

27. Si les membres du groupe ont un avocat, veuillez indiquer ses coordonnées

Nom

Adresse

Email

Numéro(s) de téléphone

28. Si un représentant légal commun est désigné par la Cour pour représenter les vues et préoccupations du groupe dans les procédures devant la CPI, quels sont les critères de sélection que le groupe souhaiterait que la Cour prenne en considération avant de désigner un représentant légal commun ?

Q 25. Pour représenter des victimes devant la CPI, un avocat doit être inscrit sur la liste des conseils de la Cour. Les avocats qui ne figurent pas sur cette liste peuvent demander à y être inscrits

SECTION H – COMMUNICATION DE L'IDENTITÉ

Le présent formulaire sera communiqué à la Défense (l'accusé et ses avocats) et au Procureur de la CPI. Les juges peuvent décider qu'il sera communiqué sans que soit révélée l'identité des membres du groupe.

29. Est-ce que le groupe dans son ensemble présentant la demande aurait des raisons de s'inquiéter pour sa sécurité, son bien-être, sa dignité ou sa vie privée, ou pour ceux de toute autre personne, si son identité ou celle des membres du groupe était révélée à la Défense ou au Procureur de la CPI ?

☐ Oui ☐ Non

Si **oui**, quelles sont ces raisons ?

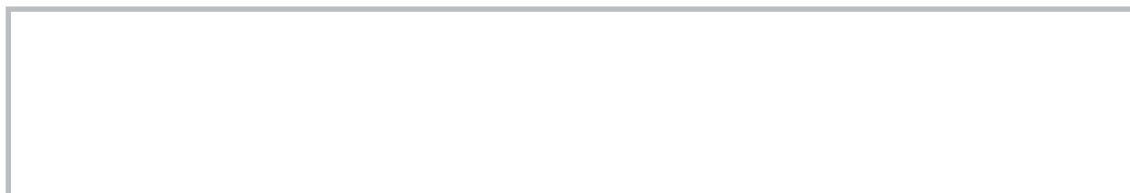
Q 29. Les victimes soumettant une demande peuvent non seulement redouter un danger physique mais aussi s'inquiéter pour leur bien-être psychologique, leur réputation, leur vie privée et/ou leur dignité ou ceux de leur famille. L'identité des membres du groupe ou de la personne à contacter qui soumet la demande ne sera pas révélée au public tant que la demande est en cours d'examen. Si la demande est acceptée, la question de la communication de l'identité peut à nouveau être posée aux membres du groupe

SECTION I – SIGNATURES

SIGNATURE DE LA PERSONNE À CONTACTER SOUMETTANT LA DEMANDE

Par la présente :

- Je certifie sur l'honneur que les informations figurant dans le présent formulaire sont exactes, dans la mesure de mes connaissances



Signature de la personne à contacter soumettant la demande, empreinte de pouce ou autre marque

Date (jour, mois, année)

Lieu

RAPPEL – Les documents suivants doivent être joints au présent formulaire

Pour chaque membre du groupe :

- ☐ Photocopie de la preuve d'identité (OBLIGATOIRE)
- ☐ Déclaration signée indiquant comment et pourquoi les intérêts personnels de la victime sont affectés et précisant clairement l'intention de participer à la procédure (OBLIGATOIRE)
- ☐ Preuve de lien de parenté ou de tutelle/garde (SI NÉCESSAIRE)

Pour la personne soumettant la demande :

- ☐ Photocopie de la preuve d'identité (OBLIGATOIRE)

IMPORTANT

Le présent formulaire et la procédure de demande sont gratuits. La CPI ne prélève de frais à aucun stade de la procédure.

SECTION J – NOMS DES MEMBRES DU GROUPE

1.	_____	_____
	Nom(s) de la victime	Signature
2.	_____	_____
	Nom(s) de la victime	Signature
3.	_____	_____
	Nom(s) de la victime	Signature
4.	_____	_____
	Nom(s) de la victime	Signature
5.	_____	_____
	Nom(s) de la victime	Signature
6.	_____	_____
	Nom(s) de la victime	Signature
7.	_____	_____
	Nom(s) de la victime	Signature
8.	_____	_____
	Nom(s) de la victime	Signature
9.	_____	_____
	Nom(s) de la victime	Signature
10.	_____	_____
	Nom(s) de la victime	Signature
11.	_____	_____
	Nom(s) de la victime	Signature
12.	_____	_____
	Nom(s) de la victime	Signature
13.	_____	_____
	Nom(s) de la victime	Signature
14.	_____	_____
	Nom(s) de la victime	Signature
15.	_____	_____
	Nom(s) de la victime	Signature
16.	_____	_____
	Nom(s) de la victime	Signature
17.	_____	_____
	Nom(s) de la victime	Signature
18.	_____	_____
	Nom(s) de la victime	Signature
19.	_____	_____
	Nom(s) de la victime	Signature
20.	_____	_____
	Nom(s) de la victime	Signature
21.	_____	_____
	Nom(s) de la victime	Signature
22.	_____	_____
	Nom(s) de la victime	Signature
23.	_____	_____
	Nom(s) de la victime	Signature
24.	_____	_____
	Nom(s) de la victime	Signature
25.	_____	_____
	Nom(s) de la victime	Signature

Section J. Veuillez donner tous les noms, aussi complets que possible des membres du groupe.

Si vous avez besoin de plus de place, veuillez ajouter les autres noms sur un feuillet supplémentaire.

Si un ou plusieurs membres du groupe ont déjà soumis une demande de participation et/ou de réparation, veuillez indiquer le numéro de référence sur la ligne à côté du nom du demandeur et de sa signature.

26.	_____	_____
	Nom(s) de la victime	Signature
27.	_____	_____
	Nom(s) de la victime	Signature
28.	_____	_____
	Nom(s) de la victime	Signature
29.	_____	_____
	Nom(s) de la victime	Signature
30.	_____	_____
	Nom(s) de la victime	Signature
31.	_____	_____
	Nom(s) de la victime	Signature
32.	_____	_____
	Nom(s) de la victime	Signature
33.	_____	_____
	Nom(s) de la victime	Signature
34.	_____	_____
	Nom(s) de la victime	Signature
35.	_____	_____
	Nom(s) de la victime	Signature
36.	_____	_____
	Nom(s) de la victime	Signature
37.	_____	_____
	Nom(s) de la victime	Signature
38.	_____	_____
	Nom(s) de la victime	Signature
39.	_____	_____
	Nom(s) de la victime	Signature
40.	_____	_____
	Nom(s) de la victime	Signature
41.	_____	_____
	Nom(s) de la victime	Signature
42.	_____	_____
	Nom(s) de la victime	Signature
43.	_____	_____
	Nom(s) de la victime	Signature
44.	_____	_____
	Nom(s) de la victime	Signature
45.	_____	_____
	Nom(s) de la victime	Signature
46.	_____	_____
	Nom(s) de la victime	Signature
47.	_____	_____
	Nom(s) de la victime	Signature
48.	_____	_____
	Nom(s) de la victime	Signature
49.	_____	_____
	Nom(s) de la victime	Signature
50.	_____	_____
	Nom(s) de la victime	Signature

Annex F

Déclaration individuelle

standard accompagnant
le formulaire pour les groupes

1. Je _____ confirme mon souhait/ le souhait de _____ au nom de laquelle j'agis, de participer aux procédures devant la CPI et certifie que l'information donnée dans le formulaire pour le groupe, enregistré le _____ par _____ de la Section de la participation des victimes et des réparations sont correctes.

2. Je/La personne au nom de laquelle j'agis confirme avoir personnellement souffert des événements suivants :

ayant eu pour conséquence le dommage suivant :

À cette date _____
En ce lieu _____

3. Je peux être contacté à (lieu de résidence et téléphone)

4. Par la présente, je donne mon consentement à

_____ en sa qualité de personne de contact pour la soumission de la présente demande.

5. Si l'identité de la victime était révélée à la Défense ou au Procureur de la CPI, la victime aurait-elle des raisons de s'inquiéter pour sa sécurité, son bien-être ou sa vie privée, ou pour ceux de toute autre personne ?

☐ Oui ☐ Non Si *oui*, raisons _____

6. Si vous agissez au nom d'une personne incapable juridiquement, veuillez préciser également si :

- ☐ Vous agissez au nom d'un enfant mineur
☐ Vous agissez au nom d'un adulte reconnu incapable majeur

Signature de la personne ayant rempli ce formulaire

Date : _____ Lieu : _____

Annex G

Registration Form

for Individuals

Basic Information about the Victim:

Name: _____ ID Number/Type: _____

Date of Birth / Age: _____ Sex: _____ Ethnic Group/Tribe: _____

Declaration:

1. I confirm my wish, or the wish of the victim named above on whose behalf I am acting, to participate in ICC proceedings
☐ Yes ☐ No
2. I confirm to have personally suffered from the following crime(s): *(select all that apply)*
☐ Murder of a Loved One ☐ Forced Displacement ☐ Rape ☐ Inhumane Acts ☐ Property Loss

Resulting in the following harm:

☐ Physical ☐ Psychological ☐ Material ☐ Other (If other, please state below)

On this date: _____

At this location: _____

3. Would the victim have any reason to be concerned if his or her identity were to be revealed to the Chamber, the defence or the ICC Prosecutor?
☐ Yes ☐ No *If yes, reasons*

Signature, thumbprint or other mark of the victim

Date : _____ Location : _____

Analysis:

The declarant's identity has been verified by a member of the Legal Team?

☐ Yes ☐ No

Is the declarant a victim (or acting on behalf of a victim) for the purpose of participation at Trial?

☐ Yes ☐ No



for Individuals

- ☐ Yes ☐ No *If yes, reasons*

- ☐ You are acting on behalf of a child who is under 18 years of age
- ☐ You are acting on behalf of a disabled adult
- ☐ The victim is an adult and gives his or her consent

- 10

SAW

Annex H



Cour
Pénale
Internationale
International
Criminal
Court

Application for Victims' Participation

Name: _____ Date of Birth or Age: _____

Sex: ☐ M ☐ F Ethnic Group or Tribe: _____

Proof of identity of victim or proof of relationship to victim(s): _____

Proof of identity of person acting on behalf of victim or proof of relationship to victim (if applicable): _____

1. I, or the victim on whose behalf I am acting, confirm to have personally suffered from the following events:

2. Resulting in the following personal harm:

On this date: _____

At this location: _____

Who, in the view of the applicant, is responsible for the events? _____

3. In the event of a conviction of the suspect, does the victim intend to apply for reparations?

☐ Yes ☐ No

Signature of the victim or person acting on behalf of the victim

Date : _____ Location : _____

If you are acting on behalf of a victim please specify if it is because:

- ☐ You are acting on behalf of a child who is under 18 years of age
- ☐ You are acting on behalf of a disabled adult
- ☐ The victim is an adult and gives his or her consent

4. How can the person submitting the application be contacted (place of residence and telephone number) :

5. Name and address of the person (and organisation, if any) who assisted the person submitting the application on behalf of the organisation:

6. Does the victim have any reason to be concerned about his or her security, well-being, dignity or privacy or that of any other person as a result of his or her interaction with the ICC?

☐ Yes ☐ No *If yes, reasons* _____

7. What language(s) does the person submitting the application speak?

8. Does the victim have any objections to having a single lawyer appointed to represent all of the victims in the case? ☐ Yes ☐ No *If yes, reasons* _____

What would the victim want the Court to take into consideration in selecting the lawyer?

REMINDER: THE FOLLOWING DOCUMENTS SHOULD BE ATTACHED TO THIS APPLICATION FORM

For the Victim:

- ☐ Photocopy of proof of identity (REQUIRED)
- ☐ Photocopy of proof of relationship (REQUIRED if the victim is claiming to have suffered harm as a result of a crime committed against a member of his or her family)

For the person acting on behalf of the victim (if applicable)

- ☐ Photocopy of proof of identity (REQUIRED)
- ☐ Photocopy of proof of relationship to victim (REQUIRED unless the victim is an adult who has given consent. If the victim is an adult that gives his or her consent please also provide a signed statement clearly conveying the consent of the victim)

**This form and the application process is free of charge
The ICC does not charge a fee at any stage of proceedings**